

January 17, 2019



Dear Senator,

The Drug Policy Alliance urges you to oppose the nomination of William P. Barr for United States Attorney General. The nominee comes before the Committee with a long track record of championing extreme views on drugs and sentencing that should be disqualifying for this position.

During his tenure as Attorney General under George H.W. Bush, Barr pushed for an expansion of the war on drugs and traversed the country pressing state officials to construct more prisons and incarcerate more drug offenders.ⁱ Barr is at least partly responsible for the overreliance on incarceration and punitive approaches to drugs that define US drug policy. In the years that have followed, Barr has been unequivocal in his view that draconian drug sentencing laws, brutal law enforcement crackdowns and an escalation of the war on drugs would reduce crime.

When it became clear in the mid-1990s that the crack-powder sentencing disparity was perpetuating gross racial disparities in the criminal justice system, Barr defended the policy arguing in a 1997 co-written op-ed that the 100-to-1 sentencing disparity between crack cocaine and powder cocaine was “not excessive,” and that crack cocaine sentencing laws were, in fact, not “100 times more severe than those for powder cocaine” stating that the 100-to-1 disparity was “a widely cited figure that is based on a misunderstanding of the statute.”ⁱⁱ

Acting on extensive data from the United States Sentencing Commission demonstrating the deleterious effects of the cocaine disparity, as well as horrific cases of individuals serving decades-long sentences for personal quantities of crack cocaine, Congress enacted the Fair Sentencing Act in 2010. Barr has been unmoved on drug sentencing reform despite this change in policy. In 2014, Barr signed a letter to Congress opposing legislation that would reduce mandatory minimum sentences for drugs.ⁱⁱⁱ The following year, Barr signed onto another letter opposing a modest sentencing reform bill – the Sentencing Reform and Corrections Act – in which he claimed that “our system of justice is not broken.”^{iv}

Just last month Congress passed, and President Trump signed, the First Step Act which applied this sentencing reform retroactively. Much of this legislation will have to be implemented by the Attorney General. In his written testimony and during questioning before this Committee, Barr pledged to implement the First Step Act.^v Yet, it is hard to believe that Barr has changed his mind on criminal justice reform, and there is no guarantee that Barr will uphold his pledge to support modest congressional reforms like the First Step Act if confirmed. In fact, Barr indicated in his written testimony that, despite passage of the First Step Act, he intends to stay the course set by former Attorney General Sessions to “keep up the pressure on chronic, violent criminals. We cannot allow the progress we have made to be reversed.”^{vi}

During his time as Attorney General, and the years that followed, Barr has characterized drug addiction as a moral flaw deserving of punishment, arguing for instance in 1996 that “drug addicts” are “blameworthy” for the “decomposition of our cities” and that police should have

discretion to “target” them.^{vii} Barr’s views on drugs are especially important given the overdose crisis this country now faces. The consensus politically has been that we need a public health approach to the overdose crisis, yet Barr is someone who has the same mindset as Sessions, and is likely to pursue the same failed drug war strategies of locking up drug users and pushing for tough sentences that do nothing to reduce overdose deaths and serve only to increase the prison population, usually through the incarceration of people of color. Indeed, William Barr’s daughter – Mary Daly – is currently the point person on opioid prosecutions at DOJ and has stressed the importance of “aggressive enforcement” when it comes to the overdose crisis.^{viii}

The power of the Attorney General is vast, and largely unchecked. The Committee should therefore be especially concerned about comments that Barr made in a 2001 interview where he expressed views that the war on drugs should be handled by the military and treated as a national security issue. Barr also suggested that the U.S. should engage in the extrajudicial killings of drug traffickers, stating that “Using the military in drugs was always under discussion. I personally was of the view it was a national security problem. I personally likened it to terrorism. I believe you can use law enforcement to some extent, particularly in the U.S., but the best thing to do is not to extradite Pablo Escobar and bring him to the United States and try him. That’s not the most effective way of destroying that organization.”^{ix}

In the same interview, Barr stated that “there are only two end games: You either lock them up or you shoot them, one or the other” when dealing with people involved in drug trafficking organizations like the Medellin cartel.^x Barr’s advocacy here for extrajudicial killings is deeply troubling, especially given that Trump has already called for the death penalty for people who sell fentanyl. It should be noted that Barr again expressed his view in testimony before this Committee that the war on drugs is “not just a law enforcement problem; it’s a national security problem.”^{xi}

In 2017, we urged this Committee to oppose the nomination of Jeff Sessions given his very troubling record in opposition to drug sentencing reform and extreme views on drugs and policing. Sessions went on to then publicly oppose this Committee’s efforts to take proactive steps toward winding down mass incarceration and reforming draconian drug sentencing laws. We see similar dire warning signs in William Barr’s record that he is likely to oppose efforts by this Committee and by Congress to enact further reform.

It has been nearly five decades since President Nixon declared a war on drugs and more than three decades since Congress enacted the 100-to-1 cocaine sentencing disparity. We know the destruction that these failed policies have wrought on our communities and our nation as a whole. We therefore cannot afford to confirm William Barr knowing he will seek to continue an escalation of failed drug policies begun by his predecessor Sessions. We strongly urge this Committee to oppose the confirmation of William Barr to serve as Attorney General.

Sincerely,

Michael Collins
Director, Office of National Affairs
Drug Policy Alliance

ⁱ See for example: The Case for More Incarceration, 1992, Appendix 12(b), p. 182; and Appendix 12(d), pgs. 281, 613, 1109, 1182 and 1208

ⁱⁱ Should Congress Refuse to Shorten Sentences for Crack? *Deseret News*, Oct. 4, 1997, see Appendix 12(a), p. 114

ⁱⁱⁱ Re: Federal Criminal Sentencing Reform, 2014, see Appendix 12(c), p. 91

^{iv} Re: Sentencing Reform and Corrections Act of 2015, S. 2123, December 10, 2015, see Appendix 12(c), p. 85

^v Written Testimony of William P. Barr, United States Senate, Committee on the Judiciary, Hearing on the Nomination of the Honorable William Pelham Barr to be Attorney General of the United States, January 15, 2019, p. 3; See Transcript, Senate Judiciary Committee Hearing on the Nomination of William P. Barr to Be Attorney General of the United States, January 15, 2019

^{vi} Written Testimony of William P. Barr, United States Senate, Committee on the Judiciary, Hearing on the Nomination of the Honorable William Pelham Barr to be Attorney General of the United States, January 15, 2019, p. 3

^{vii} A Practical Solution to Crime in Our Communities, 1996, see Appendix 12(a), p. 210

^{viii} National Public Radio, “Federal Prosecutor Takes On New Case As DOJ Point Person For Opioid Crisis,” Ryan Lucas, April 9, 2018, accessed via the Internet: <https://www.npr.org/2018/04/09/599854675/federal-prosecutor-takes-on-new-case-as-doj-point-person-for-opioid-crisis>

^{ix} University of Virginia, Miller Center, Presidential Oral Histories, George H. W. Bush Presidency, William P. Barr Oral History, Assistant Attorney General; Deputy Attorney General; Attorney General, April 5, 2001, accessed via the Internet: <https://millercenter.org/the-presidency/presidential-oral-histories/william-p-barr-oral-history-assistant-attorney-general>

^x University of Virginia, Miller Center, Presidential Oral Histories, George H. W. Bush Presidency, William P. Barr Oral History, Assistant Attorney General; Deputy Attorney General; Attorney General, April 5, 2001, accessed via the Internet: <https://millercenter.org/the-presidency/presidential-oral-histories/william-p-barr-oral-history-assistant-attorney-general>

^{xi} See Transcript, Senate Judiciary Committee Hearing on the Nomination of William P. Barr to Be Attorney General of the United States, January 15, 2019