

**WITNESS STATEMENT OF MICHAEL B. MUKASEY ON NOMINATION OF
WILLIAM P. BARR – 1/16/19**

Chairman Graham, Ranking Member Feinstein, and Members of the Judiciary Committee – It is an honor and a pleasure for me to appear before this Committee in support of the nomination of William P. Barr to serve as Attorney General.

My personal acquaintance with Mr. Barr began after my own service at DOJ ended, in connection with one or two private practice matters. I am not free to discuss the detail of those matters, but he showed the best qualities of a lawyer in private practice. He was rigorously grounded in both the facts and the applicable law, and thoroughly practical. On a personal level, he was utterly free of the kind of self-importance that occasionally afflicts people who have held high office.

His history of government service is simply without equal in suiting him to serve as Attorney General. He worked for the CIA for six years, including work in the Intelligence Directorate, which means he has a grasp of the national security issues that DOJ must deal with and for which the Attorney General must help set policy for the administration. These issues arise in settings as diverse as terrorism, immigration and enforcement of criminal laws.

He served as well as the head of the office within DOJ – the Office of Legal Counsel – that is charged with setting the governing legal position on all issues for all departments within the Executive. Quite simply, OLC is the government's -- certainly the Executive's -- principal source of legal authority. By virtue of having headed OLC,

he will be able not only to receive the advice of that Office, but also to engage actively on the most difficult issues.

After his service at OLC, Bill Barr served as Deputy Attorney General –the chief operating officer of DOJ. This means that he starts out completely knowledgeable in how the Department works. That, of course, adds immeasurably to the efficiency with which he will be able to take up his duties.

Unlike any prior nominee to be Attorney General, he has served as well in that position.

It is not only the jobs he has had, but also what he has done in them and how he has done it that makes him a superbly qualified nominee. He has successfully managed a hostage crisis at a federal prison; he has helped implement the Americans With Disabilities Act; he has led in active civil rights law enforcement; he has overseen crime initiatives aimed at combating violent gangs and drug dealers; he has given advice to the White House even when it was not necessarily the advice the White House wanted to hear.

I would like to pick just two examples from that list simply to show what sort of person Bill Barr is. The hostage crisis was precipitated by an uprising at a federal prison by prisoners who had been released from Cuban jails and were being held at an American prison before they could be shipped back to Cuba. They seized hostages and were obviously prepared to risk their own lives rather than be returned to Cuba. Bill Barr was

Acting Attorney General, and had the level headedness and good judgment to resist suggestions for an immediate storming of the prison in a military-style operation. Instead, he used negotiation techniques to get FBI agents masquerading as food service staff inside the prison to determine where the hostages were being held, and then focused a rescue effort on that area. There were two notable results of that effort: (i) all the hostages were freed with no loss of life on either side; and (ii) Bill Barr took absolutely no public credit for that outcome.

The second example involved a request from the White House that he try to find legal authority to support a line item veto. Bill Barr believed at the time, as did the president under whom he served, that asserting a presidential power when it was doubtful at best weakened rather than strengthened the presidency. He reported to the President that he had good news and bad news. The good news was that although there was no U.S. law that seemed relevant, there was one instance in common law, involving a Scottish king in around the 15th century, who had done something that looked like a line item veto; the bad news was that that king was suffering from advanced syphilis at the time and was quite insane, so if the President chose to follow that example he would have to refer to it as the syphilitic prerogative. The line item veto was not asserted.

Both of these examples show that he has good judgment, and the will to exercise it under pressure from whatever source.

To be sure, the problems that confront DOJ today are not the same as the ones that existed during his tenure, or mine. Nonetheless, the diversity of his history at DOJ means that he has both the experience and the stature to serve effectively.

As important as experience and background are in evaluating a nominee, personal qualities are at least equally important. I think another measure of his character, in addition to the instances mentioned above, may be found in my most recent interaction with him, which involved op-ed an article we worked on that paid tribute to the dedicated service of Attorney General Jeff Sessions. The article was published in the Washington Post on November 7, 2018, as Mr. Sessions was leaving office and exactly a month before Mr. Barr's own selection as his successor was announced on December 7. When I asked whether he would join in such an article, he did not hesitate to say he would. Although an article praising the service of someone who had incurred the criticism of the White House could well displease those involved in choosing who would succeed him, Mr. Barr reiterated more than once his belief that offering that praise was simply the right and honorable thing to do, and he was grateful to have been asked to join.

In sum, both his professional history and his personal qualities are such that I believe he is ideally qualified to be Attorney General. I urge the Committee to approve his nomination.