

January 14, 2019

Chairman Lindsey Graham
Senate Judiciary Committee
United States Senate

Ranking Member Dianne Feinstein
Senate Judiciary Committee
United States Senate

Dear Chairman Graham and Ranking Member Feinstein,

We write on behalf of 28 reproductive health, rights and justice organizations in unified opposition to the nomination of William Barr for the role of the United States Attorney General. Given his long and explicit record of opposition to reproductive rights and his alignment with extreme anti-abortion organizations, we strongly believe that former Attorney General Barr does not possess the ability to fairly oversee the Department of Justice and meet its obligations to protect reproductive health care rights and access without prejudice.

The mission of the Department of Justice (DOJ) is to “ensure fair and impartial administration of justice” as the chief enforcer of our [nation’s laws](#). With this great responsibility, the DOJ plays a critical role in our nation’s ongoing progress by defending and enforcing existing federal laws that reflect the values and principles of our country. Those landmark policies that DOJ is entrusted with defending include the Affordable Care Act, Medicaid, and the right to safe, legal abortion.

In 2011, Barr joined other former Republican Attorneys General on an amicus brief in opposition to the Affordable Care Act in the *Commonwealth of Virginia v. Sebelius* in which they argued that Congress sought to coerce healthy patients into the insurance market through the ACA and that the law was unconstitutional.¹ If the ACA were invalidated, 62 million women would lose access to no-cost preventive services, including birth control, STI screenings, and life-saving screenings such as breast cancer screenings, Pap tests, and HIV screenings, with women of color being disproportionately impacted. By actively opposing the ACA, Barr proved that he is willing to put ideology over women’s health.

Barr also submitted an amicus brief with other former Republican Attorneys Generals in *Zubik v. Burwell* in which they advocated against the ACA birth control benefit. The DOJ is currently

¹ Brief of Amici Curiae Former United States Attorneys General William Barr, Edwin Meese, III, and Dick Thornburgh, In Support of Appellees, *Commonwealth of Virginia v. Sebelius* (4th Cir. 2011) (Nos. 11-1057 & 11-1058)

refusing to defend the Affordable Care Act's birth control benefit and entering into illegal settlement agreements with employers who object to the birth control coverage.²

In addition, the Department of Justice is charged with investigating and prosecuting federal crimes targeting abortion providers, and thus impacts the safety of abortion providers and their patients more than any other agency. Specifically, the Attorney General is responsible for enforcing the Freedom of Access to Clinic Entrances (FACE) [Act](#) which, when enforced, has a clear impact on the number of violent acts directed against clinics and providers. While Barr was Deputy Attorney General, the Department of Justice intervened in several cases in support of anti-abortion protesters who were blocking access to abortion clinics.³ Given his previous stance, Barr cannot be trusted to protect abortion access.

The Attorney General also oversees the work of the critical National Task Force on Violence Against Health Care [Providers](#). The Attorney General has discretion and authority regarding resources and staffing, and can decide whether to pursue FACE cases, in addition to what level of priority the Task Force takes within the Department of Justice.

Based on his record, we do not believe that Barr will fulfill his obligation to protect health care including reproductive health care and access to safe, legal abortion.

In fact, Barr made clear his disdain for women's access to abortion on several occasions before and during his tenure as Attorney General. During his 1991 nomination hearing, Barr was asked about his views on privacy rights as they relate to abortion, to which he responded that he does not believe that the right to privacy extends to abortion and that *Roe v. Wade* was incorrectly decided and should be overturned.

In addition, as Attorney General, Barr sent a [letter](#) in 1992 to the Senate expressly opposing the Freedom of Choice Act (FOCA), legislation that would have enshrined *Roe v. Wade* into law. The letter stated that he would advise then-President H.W. Bush to veto the legislation if it were approved by Congress. Barr penned a similar [letter](#) to Representative Henry Hyde incorrectly stating that FOCA would "impose an unprecedented regime of abortion on demand" throughout the country that would go beyond the requirements of *Roe*. This statement is factually inaccurate because FOCA would have simply codified *Roe* into law as opposed to expanding abortion rights beyond that which is specified in the case.

²<http://www.scotusblog.com/wp-content/uploads/2016/01/Former-Justice-Department-Officials-LSP-Amicus.pdf>

³ Justice Dept. Joins Wichita Case, Backing Antiabortion Protestors, Washington Post (Aug. 6, 1991), https://www.washingtonpost.com/archive/politics/1991/08/07/justice-dept-joins-wichita-case-backing-antiabortion-protestors/9f95ffab-0b6c-4142-bd31-76949c6f8a5d/?utm_term=.8ab64037d06f; Amicus Brief by Department of Justice in support of Appellants, *Bray v. Alexandria Women's Clinic*, 506 U.S. 263 (1993); <https://www.justice.gov/sites/default/files/osg/briefs/1990/01/01/sq900229.txt>

Barr continued his public opposition to abortion while Attorney General when he appeared on CNN after the *Planned Parenthood v. Casey* (1992) decision to discuss his disappointment in the Supreme Court's ruling. Barr again emphasized his belief that *Roe* should be overturned and went on to predict that the decision will ultimately be overturned because "it does not have any constitutional underpinnings."⁴

Barr's hostility towards abortion has not only appeared during the course of his work at DOJ but also through his personal writings and affiliations both before and after his tenure at DOJ. In his 1995 article for the *Catholic Lawyer* entitled "*Legal Issues in a New Political Order*," Barr [lamented](#) what he called "the breakdown of traditional morality," citing *Roe* as a "secularist" effort to "eliminate laws that reflect traditional moral norms." This statement is direct evidence that Barr will not respect *Roe* as existing law as Attorney General. Also, Barr has long term associations with groups with known hostility towards abortion rights. Barr was on the Board of Advisors for the Becket Fund for Religious Liberty, a [group](#) that has opposed women's reproductive rights including challenging the Affordable Care Act's contraceptive-coverage policy on the grounds of religious freedom in the *Hobby Lobby v. Burwell* Supreme Court case.

Barr's extensive history of opposing laws protecting health care access and reproductive health care is the reason for concern and objection from the reproductive health, rights and justice community. We cannot permit the personal ideology of our next United States Attorney General to prevent the DOJ from both fairly enforcing our laws and protecting our constitutional rights . We urge you to oppose the nomination of William Barr for the post of U.S. Attorney General.

Sincerely,

Advocates for Youth
Catholics for Choice
Feminist Majority Foundation
Global Justice Center
In Our Own Voice: National Black Women's Reproductive Justice Agenda
International Women's Health Coalition
Lady Parts Justice League
NARAL Pro-Choice America
National Abortion Federation
National Asian Pacific American Women's Forum
National Council of Jewish Women
National Health Law Program
National Institute for Reproductive Health
National Latina Institute for Reproductive Health
National Network of Abortion Funds
National Organization for Women

⁴ Rowland Evans and Robert Novak, *Bill Barr Interview*, CNN (July 4, 1992)

National Partnership for Women and Families

National Women's Health Network

Not Without Black Women

PAI

Physicians for Reproductive Health

Planned Parenthood Federation of America

Population Connection Action Fund

Population Institute

Sexuality Information and Education Council of the United States

SIA Legal Team

URGE: Unite for Reproductive and Gender Equality