

**Senator Dianne Feinstein**  
**William Barr Confirmation Hearing Opening Statement**  
**January 15, 2019**

When we met, your previous tenure—we talked about—marked a very different time for our country. And today, we find ourselves in a unique time, with a different administration and different challenges.

And now, perhaps more than ever before, the country needs someone who will uphold the rule of law, defend the independence of the Justice Department, and truly understand their job is to serve as the people's lawyer—not the president's lawyer.

Top of mind for all of us is the ongoing Mueller investigation. Importantly, the attorney general must be willing to resist political pressure and be committed to protecting this investigation.

I'm pleased that in our private meeting, as well as in your written statement submitted to the committee, you stated that "it is vitally important," and this is a quote, "that the special counsel be allowed to complete his investigation" and that "the public and Congress be informed of the results of the special counsel's work."

However, there are at least two aspects of Mr. Mueller's investigation. First, Russian interference in the United States election and whether any U.S. persons were involved in that interference; and, second, possible obstruction of justice.

It's this second component that you have written on. And just five months before you were nominated—I spent the weekend on your 19-page legal memo to Deputy Attorney General Rod Rosenstein criticizing Mueller's investigation, specifically the investigation into potential obstruction of justice.

In the memo, you conclude, I think, Special Counsel Mueller is "grossly irresponsible" for pursuing an obstruction case against the president, and pursuing the obstruction inquiry is "fatally misconceived." So I hope we can straighten that out in this hearing.

But your memo also shows a large sweeping view of presidential authority, and a determined effort, I thought, to undermine Bob Mueller even though you state you have been friends and are "in the dark about many facts" of the investigation.

So it does raise questions about your willingness to reach conclusions before knowing the facts and whether you have prejudged the Mueller investigation. And I hope you'll make that clear today.

It also raises a number of serious questions about your views on executive authority and whether the president is, in fact, above the law.

For example, you wrote the president "alone is the executive branch. As such, he is the sole repository of all executive powers conferred by the Constitution. Thus, the full measure of law

enforcement authority is placed in the president's hands, and no limit is placed on the kinds of cases subject to his control and supervision." This is in your memo on page 10 and I will ask you about it.

This analysis included cases involving potential misconduct where you concluded, "the president may exercise his supervisory authority over cases dealing with his own interests, [and] the president transgresses no legal limitation when he does so." That's on page 12.

In fact, you went so far as to conclude that "The framer's plan contemplates that the president's law enforcement powers extend to all matters, including those in which he has a personal stake." You also wrote, "The Constitution itself places no limit on the president's authority to act on matters which concern him or his own conduct." Page 10.

Later, you conceded that certain supervisory actions, such as the firing of Director Comey, may be unlawful obstruction. However, this too is qualified. You argued that in such a case obstruction of justice occurs only if first a prosecutor proves that the president or his aides colluded with Russia. Specifically you concluded: "The issue of obstruction only becomes ripe after the alleged collusion by the president or his campaign is established first."

So those are the some of the things I hope to ask you about. In conclusion, let me just say that some of your past statements on the role of attorney general and presidential power are concerning. For instance, you have said in the past that the attorney general "is the president's lawyer."

In November 2017, you made comments suggesting it would be permissible for the president to direct the Justice Department to open an investigation into his political opponents, and this is notable in light of President Trump's repeated calls for the investigation of Hillary Clinton and others who disagree with him.

I believe it's important that the next attorney general be able to strongly resist pressure whether from the administration, or Congress, to conduct investigations for political purposes.

He must have the integrity, strength, and fortitude to tell the president "no," regardless of the consequences. In short, he must be willing to defend the independence of the Justice Department.

So, Mr. Barr, my questions will be, do you have that strength and commitment to be independent of the White House pressures you will undoubtedly face? Will you protect the integrity of the Justice Department, above all else? Thank you very much.