

U.S. SENATE,

Washington, DC, February 7, 2019.

WILLIAM P. BARR,
Kirkland & Ellis LLP,
Washington, DC.

DEAR MR. BARR: I am writing to follow up on my January 17 letter about Special Counsel Mueller's investigation, and regarding other investigations that implicate the President's interests. As you know, you were asked numerous questions about both the Mueller investigation as well as investigations in the Southern District of New York, Eastern District of Virginia, and District of Columbia.

As raised at your hearing, it is imperative that all of these investigations be free from any interference and allowed to continue. In your June 2018 memo, you took the position that "no limit is placed on the kinds of cases subject to [the President's] control and supervision," including "matters in which he has an interest." While you testified that you would not stop these investigations, you qualified your answer by saying "if I thought it was a lawful investigation." When asked if the President could fire prosecutors on these cases, you responded that "the President is free to fire his, you know, officials that he has appointed."

This gives you, and the President, considerable discretion and power over these investigations. I therefore ask for your commitment that these investigations will be allowed to proceed without interference, and for an explanation of how you will safeguard their independence and integrity, if confirmed.

Thank you for your attention to these important matters.

Sincerely,

DIANNE FEINSTEIN,
U.S. Senator.

Mrs. FEINSTEIN. I did not receive the courtesy of a response to either letter.

Here is a man seeking approval of his appointment. The ranking member of the Judiciary Committee sends him a letter asking two very valid questions, and there is no response. That told me something very loud and clear.

Over the past year, we have seen several other investigations arising out of the Southern District of New York, the Eastern District of Virginia, and the District of Columbia, where prosecutors are looking into crimes involving foreign donations to the Trump inauguration committee, money laundering, campaign finance violations, as well as possible efforts by Russian agents to assist the Trump campaign during the election. When asked about these investigations at his hearing, Mr. Barr refused to pledge they would be protected from interference. He refused to pledge that these valid investigations would be protected from interference.

For example, Senator COONS asked, "If the President ordered you to stop the [Southern District of New York] investigation in which someone identified as individual one is implicated, would you do that?"

Mr. Barr responded that "every decision within the department has to be made based on the attorney general's independent conclusion and assessment that it's in accordance with the law, so I would not stop a bona fide lawful investigation."

However, this qualification of "a bona fide, lawful investigation" is all important. In his 19-page memo, Mr. Barr clearly wrote this: "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," including "matters in which he has an interest." I really see why he was nominated. This is the offering of complete protection from the law by the Attorney General—future Attorney General, if he should become one.

Mr. Barr went on to argue that if the President determined "an investigation was bogus, the President ultimately had legitimate grounds for exercising his supervisory powers to stop the matter." This would mean that the President could stop the Mueller investigation, which the President has repeatedly described as a "witch hunt" and "hoax."

It also means that if Donald Trump decided the Southern District of New York's investigation was, in Mr. Barr's words, "bogus," the President would have the right to stop the investigation. Think about that. Think about the ramifications of that.

When Senator BLUMENTHAL asked Mr. Barr during his hearing, "If the President fired a United States attorney, would you support continuing that investigation, even under the civil servants, the career prosecutors, who would remain?"

Mr. Barr replied, "Yeah . . . I believe, regardless of who or what outside the department is trying to influence what is going on, every decision within the department relating to enforcement, the attorney general has to determine independently that—that it is a lawful action."

Think about that. The Attorney General becomes the arbiter, independently, of what a lawful action comprises. But, again, according to this memo, firing a U.S. attorney, even if it implicates the President's own personal interests, is a lawful action by the President.

During this hearing, Mr. Barr stated that "the President can fire a U.S. attorney. They are a presidential appointment."

The meaning of this is clear: Prosecutors in these cases can be fired arbitrarily by the President of the United States under his plenary authority.

As I said at the outset, the question is whether Mr. Barr is the right person for the job at this time. The memo that I am quoting from I spent a full day reading and thinking about, and it was the most extreme case for Presidential power that I have ever read. In and of itself, it gives me cause to believe this is why—I could be wrong, but this is why he received that nomination.

Given the broad implications of Presidential power and unlimited control Mr. Barr believes this President has over law enforcement matters, I cannot support this nominee to serve as Attorney General. At this critical time in

our Nation's history, we must have an Attorney General who is objective and who is clearly committed to protecting the interests of the people, the country, and the Constitution.—not the President.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

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Mr. THUNE. Mr. President, we are doing a number of important things in the Senate this week.

Last night, we passed the Natural Resources Management Act. This is a bipartisan package of more than 100 individual bills that will help protect our natural resources, spur economic development, increase access to public lands, and much more.

I was very pleased that my Custer County Airport Conveyance Act, which I introduced with the other Members of the South Dakota delegation, was included in this bill. This legislation will give Custer County Airport full ownership of the land on which it operates and allow the airport to make improvements to its facilities.

Custer County Airport supports business and recreational aviation and fire suppression efforts in the Black Hills region, and I am pleased that this bill will increase the airport's ability to serve this area of South Dakota.

I am grateful to Chairman MURKOWSKI for her leadership on this important lands package, as well as to Ranking Member MANCHIN and all of those who worked on these bills at the committee level.

NOMINATION OF WILLIAM BARR

Mr. President, last night, the Senate moved forward on William Barr's nomination to be Attorney General. We will have the final vote on that nomination later this week.

The President made an outstanding choice with Mr. Barr. Mr. Barr is eminently qualified to be Attorney General. In fact, he has already been Attorney General—under President George H.W. Bush. He also served as Assistant Attorney General in the Office of Legal Counsel at the Department of Justice and as Deputy Attorney General.

He has won respect from both sides of the aisle. He has been confirmed by the Senate without opposition—not once, not twice, but three times. He was unanimously confirmed as Attorney General under George H.W. Bush in a Democrat-controlled Senate. Then-Judiciary Committee Chairman Joe Biden described him as "a heck of an honorable guy."

Senator LEAHY also spoke at that time, expressing his belief that Mr. BARR would be "an independent voice for all Americans."

Today, Mr. Barr continues to earn respect from Democrats. The ranking member on the Judiciary Committee noted in January:

He's obviously very smart. He was attorney general before. No one can say he isn't qualified.

Mr. Barr is extremely smart and eminently qualified. He would be a judicious, thoughtful, and independent Attorney General, whose allegiance would be to, as he said, “the rule of law, the Constitution, and the American people.” I hope the Senate will quickly confirm him in a bipartisan fashion.

GOVERNMENT FUNDING

Mr. President, the final order of business this week is funding the government. I am very pleased and encouraged that Chairman SHELBY and his counterparts have reached an agreement “in principle” to fully fund the government and fund important border security measures.

No one wants another government shutdown. I am very glad Democrats abandoned their efforts to force a cap on the number of individuals that Immigration and Customs Enforcement could detain in the interior of the country. If Democrats’ enforcement cap had been adopted, Immigration and Customs Enforcement would have been forced to release criminals already in detention onto our Nation’s streets. I am pleased that Democrats decided to separate themselves from the radical anti-border-security wing of their party. Instead, the deal will now give Immigration and Customs Enforcement the flexibility it needs to address surges of illegal immigration at our southern border.

I am also very glad Democrats moved from their insistence on zero funding for physical barriers at the border. Barriers are an essential element of border security, and I am pleased this compromise will allow 55 new miles of physical barriers in the Rio Grande Valley’s sector, which is a high-priority area for the Border Patrol. That is double the number of new miles provided in fiscal year 2018 and nearly three times as many as would have been available under a continuing resolution.

I thank Chairman SHELBY and Members of both parties who have been working on a funding and border security deal, as well as the staffers who have worked nights and weekends, to help develop this agreement. I look forward to reviewing the final language and voting on a final funding and border security package later this week.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GOVERNMENT FUNDING

Mr. WARNER. Mr. President, I appreciate the bipartisan conversation that is going on with the chair, and I hope more of that will go on. That really is a little bit of why I rise today, because I hope and pray that if there—while we have many legitimate policy dif-

ferences in this body, one thing we ought to have absolute, complete agreement on is that the United States of America cannot afford another government shutdown.

The last shutdown, which President Trump was so proud to initiate, cost our economy—and this is the lowest estimate we could find so we don’t look like we are overstating—an estimated \$6 billion.

The truth is, that number hardly reflects the human cost of this self-inflicted disaster our country was led into. A recent survey found that 62 percent of Federal workers depleted most or all of their emergency savings, 42 percent of Federal workers took on debt to pay bills or other expenses, and 25 percent tapped their retirement accounts. If you tap your IRA, you pay tax penalties, and you get none of that reimbursed.

Listen to this: 25 percent of our Federal workers who were the victims of this shutdown—25 percent of our Federal workers, during this shutdown, had to visit a food bank. If you work for the United States of America, the greatest Nation in the world, and you are asked to show up to work without pay, you should not have to visit a food bank.

I spent most of my career in the private sector, and I am proud of those activities, but I know very few folks who work for any of my companies who would have continued to show up day in and day out to do their jobs if they were going for 35 days without pay—and 35 days without pay where, frankly, you had some Members of the so-called board, the Congress, who showed no appreciation at all for their suffering and many who said they didn’t mind if that shutdown continued indefinitely.

Those fellow Americans are Federal workers, contractors, private businesses that support Federal installations or the campground outside the Shenandoah National Park or the restaurant outside Petersburg National Battlefield—not just Federal employees, folks in the private sector as well endured tremendous hardship because the President decided to use their livelihoods as a bargaining chip. That can’t happen again.

While I want to always try to be optimistic and appreciate the bipartisan agreement that has been reached by the budget negotiators, unfortunately, we find ourselves in the same spot right now—potentially just days away from another Trump shutdown.

The President said he is not happy, but he won’t say whether he will sign the bipartisan deal that came from the conference committee. Let’s be clear. The uncertainty itself is having a negative impact on the operation of the Federal Government and costing taxpayer dollars each and every day that this cloud hangs over the government. Agencies are already interrupting investigations and canceling trainings and meetings. They are being forced to

act as if the government will once again be shut down at the end of this week. This is just plain mismanagement of government by the Trump administration. It is another example of the disrespect this White House has shown to our Federal workforce.

In Virginia, over the past few weeks, Senator KAINE and I have spent a lot of time listening to Federal workers. We heard from Federal workers who had to pull their kids out of daycare and send them away to relatives because they couldn’t meet those daycare expenses if they weren’t getting paid and folks who missed student loan payments or literally had to choose between their medications and paying rent. Now, these workers have started to receive some of their backpay, and many of them have not received all of their backpay from the shutdown.

The truth is, those Federal workers who drew down their savings or incurred a tax penalty from taking money from their IRA or who took an advance on their credit card are not made whole by receiving backpay because they have incurred penalties that will never be made up, beyond the psychic damage that is taking place with their families.

But even if we accept that most of the Federal workers will ultimately get their backpay, that is not the case for thousands of Federal contractors in Virginia and around the country. Quite honestly, the nightmare is not over.

The President’s decision to finally reopen the government didn’t magically undo 35 days of missed pay. Unfortunately, no one from the White House could be bothered to meet with any of these folks, whether it be Federal workers or contractors who were hurt by this government shutdown. If they had, they would know how much pain this President’s shutdown continues to inflict on Federal contractors, particularly low- and middle-income workers. I spent the last couple of months, the last month and a half listening to these folks describe the anxiety of not knowing when their next paycheck will come or if it will come at all.

Sometimes when we think about Federal contractors, we think about high-priced folks, many of whom do a good job working for our government, many in my State. Sometimes that is the image of a Federal contractor. I wonder if most of the Members of this body realize that the people who clean the toilets at the Smithsonian or serve the food at the cafeteria in the Smithsonian are Federal contractors, and for the 35 days of the government shutdown—they have no recourse at this moment in time. They are struggling as we speak, and they will continue to struggle if Congress doesn’t take advantage of this opportunity—if we get this deal signed by Friday and keep the government open—to make good on our commitment to those contractors as well. If we end up with the alternative and the government shuts down again, these folks’ lives—at least their economic lives—will be in jeopardy.