

United States Senate

WASHINGTON, DC 20510

November 20, 2018

The Honorable Michael Horowitz
Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Dear Mr. Horowitz:

I write to request that your office conduct an investigation of whether any potentially unlawful or improper communications have occurred between Acting Attorney General Matthew Whitaker, the White House, and other entities.

Recent reports regarding Mr. Whitaker's unusual history of contacts with the White House give rise to serious concerns about whether he has engaged in communications intended to undermine or obstruct Special Counsel Robert Mueller's investigation into Russian interference in the 2016 election, or that otherwise may have been in violation of law or policy. I am particularly concerned about whether Mr. Whitaker may have shared with the White House, or could share in his new role, confidential grand jury or investigative information from the Special Counsel investigation or any criminal investigation. Unauthorized disclosure of such information—especially to a target or subject in the investigation—may implicate criminal contempt of court, obstruction of justice, or the Department of Justice's long-standing policy regarding contacts with the White House related to criminal investigations or cases.¹

During his time as Chief of Staff, Mr. Whitaker reportedly “frequently spoke by phone with both [President] Trump and Chief of Staff John Kelly” and “on many of those phone calls nobody else was on the phone except for the President and Whitaker, or only Kelly and Whitaker.”² Mr. Whitaker “was seen by Department officials as a partisan and a White House spy.”³ He was also known as “the West Wing’s eyes and ears” and someone who was “counseling the White House on how the President and his aides might successfully pressure Sessions and Rosenstein to give in to Trump’s demands.”⁴

¹ Federal Rule of Criminal Procedure 6(e); 18 U.S.C. § 1503; Memorandum from Attorney General Eric Holder to Heads of Department of Justice Components and All United States Attorneys on Communications with the White House and Congress (May 11, 2009).

² *Exclusive: Trump loyalist Matthew Whitaker was counseling the White House on investigating Clinton*, Vox (Nov. 9, 2018).

³ *Trump Installs a Critic of the Mueller Investigation to Oversee It*, New York Times (Nov. 7, 2018)

⁴ *Matthew Whitaker, a Trump Loyalist, Is Seen as Ascendant Amid Rosenstein Chaos*, New York Times (Sept. 26, 2018); *Exclusive: Trump loyalist Matthew Whitaker was counseling the White House on investigating Clinton*, Vox (Nov. 9, 2018).

I am also concerned that Mr. Whitaker, who has thus far declined to recuse himself from the Special Counsel investigation, may intend to interfere in or obstruct the investigation in other ways. A recent *Washington Post* report indicated that individuals close to Mr. Whitaker “do not believe he would approve any subpoena of President Trump as part of the [Special Counsel] investigation.”⁵ Additionally, Mr. Whitaker has a history of hostile statements toward the investigation, including referring to it as “a mere witch hunt” and stating that Deputy Attorney General Rod Rosenstein needed to “step in and pull the reins back on Mueller.”⁶

While I understand certain communications between the Department of Justice and the White House related to law enforcement are allowed in limited circumstances, in light of these concerns, I request that you address the following questions:

1. During his time as Chief of Staff, did Mr. Whitaker obtain access to confidential grand jury or investigative information related to the Special Counsel investigation?
2. During his time at the Department, has Mr. Whitaker discussed—in telephone conversations, in-person meetings, or electronic communications—confidential grand jury or investigative information from the Special Counsel investigation or other criminal cases, with the President, White House officials, or individuals without authorization to access such information?
3. If so, with whom were those communications held, when did they take place, and what specific issues were discussed?
4. Has Mr. Whitaker provided any assurance to the President, White House officials, or others regarding steps he or others may take with regard to the Special Counsel investigation, including any intention to interfere, obstruct, or refuse authorization of subpoenas or other investigative steps?
5. Since his arrival at the Department, has Mr. Whitaker modified or attempted to modify in any way the Department’s policy regarding communications with the White House?
6. Have there been any violations or allegations of violations by Mr. Whitaker or any other Department or White House officials of the Department’s policy regarding communications with the White House? If so, please describe the instances where violations occurred, and explain actions taken in response.

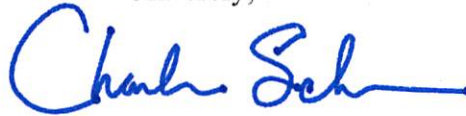
The Department of Justice must exercise its prosecutorial powers free from partisan considerations, and Special Counsel Robert Mueller must be allowed to conduct his investigation free from political interference and unlawful or unauthorized disclosures. Protecting this independence is essential to preserving the rule of law and justice in the United States.

⁵ *Acting attorney general Whitaker has no intention of recusing himself from Russia probe, associates say*, *Washington Post* (Nov. 8, 2018).

⁶ *Matthew Whitaker, Mueller’s Investigation of Trump Is Going Too Far*, *CNN* (Aug. 6, 2017); *CNN Tonight*, *CNN* (Aug. 3, 2017).

For these reasons, I request that your office conduct a thorough investigation of Mr. Whitaker's potentially unlawful or improper communications with the White House and other entities from the date of his appointment as Chief of Staff of the Department of Justice in 2017 to the present. Thank you for your attention to this urgent matter.

Sincerely,

A handwritten signature in blue ink that reads "Charles E. Schumer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Charles E. Schumer
United States Senator