



## **Holding Attorney General Barr to His Promises**

During his confirmation process, William Barr refused to make many important commitments about how he will behave as Attorney General, which led many Senators to vote against his confirmation. Now that he has been confirmed, it is important to focus on a number of promises to the Senate Judiciary Committee and to all Americans that Barr did make concerning the Mueller investigation and other important areas.

In particular, as Barr continues to be pressed on the commitments he refused to make, it is incumbent on Congress and the public to ensure that he fulfills the promises he made that pertain to 1) the Mueller investigation; 2) avoiding politics and improper influence from the White House; 3) criminal justice; 4) elections and voting; 5) other civil rights; 6) Congressional oversight; 7) antitrust; and 8) other laws in which the Department of Justice has responsibility, including the ACA.<sup>1</sup>

Those promises are detailed below.

### **1. The Mueller Investigation**

#### **A. Possible Barr Recusal**

- While Barr made clear that he himself will make the decision on whether to recuse himself from the Mueller investigation, he did commit to “seek the advice” of career ethics officials about that decision. (Tr. 31)
- Barr stated that he would not “have an objection” to notifying the Committee about what advice he received from career ethics officials about recusal and “whether [he] agreed or disagreed with it.” (Tr.178)
- Barr stated that his “intent will be to be as transparent as possible” about the advice from career ethics officials and whether he complies with it “while following the Department’s established policies and practices.” (QFR 29)
- Barr said he would “commit to abide by the terms” of his ethics agreement with the DOJ regarding non-participation for one year in any matter in which his former

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<sup>1</sup> The list of commitments below comes from Barr’s answers at his confirmation hearing according to the Congressional Quarterly transcript (“Tr.”) and his written answers to questions for the record, available [here](#) on the Senate Judiciary Committee website (“QFR \_\_”).

employer, the law firm of Kirkland and Ellis, is involved, including the Mueller investigation and any investigation of interference in the 2016 elections. (QFR 39)'

## **B. Interference with Mueller (or Another) Investigation**

- Barr stated that he “will not permit partisan politics, personal interests, or any other improper consideration to interfere with this [Mueller] or any other investigation.” (Tr.10)
- Barr also said that he “will follow the special counsel regulations scrupulously and in good faith.” (Tr.10)
- Barr indicated that he “believe(s) it is vitally important that the special counsel be allowed to complete his investigation ... And on my watch, Bob will be allowed to finish his work.” (Tr.10).
- Barr committed to “no interference with the scope of the special counsel’s investigation,” noting that the scope is set by “his charter” and “the regulations” and that Barr will “ensure that those are maintained.” (Tr.19)
- Barr committed to “providing Mr. Mueller with the resources, funds and time needed to complete his investigation.” (Tr. 19) Barr also stated that it would be his “expectation” that he would allow Mueller to exercise his judgment about what resources are needed and would make those resources available. (Tr. 86)
- Barr stated that he would not provide information to President Trump that could be used to interfere with the special counsel investigation or to misdirect or curtail it in some way, and stated that the “basic principle is that the integrity of an investigation has to be protected.” (Tr. 76-77)

## **C. Possible Mueller Firing**

- Barr committed to “ensuring that Special Counsel Mueller is not terminated without good cause consistent with department regulations,” which he thinks should not be altered during the current investigation. (Tr. 19, 75)
- Barr stated that he thinks it is “unimaginable” that Mueller would “ever do anything that would give rise” to “good cause” for firing him under DOJ regulations. Barr further states that “it would have to be pretty grave and the public interest would essentially have to compel it because I believe right now the overarching public interest is to allow him to finish.” (Tr. 32)

- Barr stated that he “would resign” if directed to fire Mueller without good cause and agreed to notify the chair and ranking member of the Committee if he believes that Mueller “has been removed without good cause.” (QFR 155-56)

#### **D. Transparency about Mueller Findings**

- Barr “believe[s] it is very important that the public and Congress be informed of the results of the special counsel's work. My goal will be to provide as much transparency as I can consistent with the law. I can assure you that, where judgments are to be made, I will make those judgments based solely on the law and I will not let personal, political, or other improper interests influence my decision.” (Tr.10, 20, 66)
- Barr used similar language in QFR answers, adding that he would promote as much transparency as possible consistent with the law “and the Department’s longstanding practices and policies” and that such policies would also guide his “judgments” on the issue. (E.g. QFR 10)
- When Mueller’s “report comes” to Barr, he promised that he will “share it” with the Committee “as much as possible...consistent with the regulations and the law.” (Tr. 16)
- Barr will “consult” with Mueller and Rosenstein about any special counsel report and “any disclosure or notification” that he will make as AG. (QFR 75, 76)
- Barr stated that he is “in favor of as much transparency as there can be consistent with the rules and the law” about the Mueller report, and specifically stated that “it will not happen” that the president will “put his own spin on” and “correct” the Mueller report “before it’s released” (Tr. 33-34). He promised that he will not allow President Trump or his attorneys to edit his report on the Mueller investigation, and that “any report sent to Congress will be my own and will not reflect changes” from anyone outside the DOJ. (Tr. 85, QFR 146)
- Barr promised that he “would be willing to appear” before the Committee to “testify and answer questions” about the Mueller investigation after Muller submits his concluding report. (QFR 77)
- With respect to executive privilege or other confidentiality claims, Barr will “follow the law, Department policy, and established practices” and “would not tolerate an

effort to withhold” privileged or confidential information “for any improper purpose, such as to cover up wrongdoing.” (QFR25)

- Barr stated that it would be his “intent” to explain to the Committee “what the reasons are” if he withholds “any information that the special counsel includes” that Barr “prevent[s]” the Committee or the public “from seeing.” (Tr. 85)
- Barr stated that he will comply with special counsel regulations that require the special counsel to send a second report to Congress documenting any instances in which the AG prohibited the special counsel from taking an action. (Tr. 165-166)

## **2. Avoiding Politics and Improper Influence from the White House**

- Barr pledged that the AG “must ensure that the administration of justice, the enforcement of the law, is above and away from politics ...” and that there can be no “toleration of political interference with the enforcement of the law.” He said, “I believe this ... more strongly than I did 27 years ago as AG.” (Tr. 9)
- Barr vowed, “I will serve with the same independence I did in 1991...I have not given [President Trump] ... any ... assurance, other than that I would run the Department with professionalism and integrity. As attorney general, my allegiance will be to the rule of law, the Constitution, and the American people.” (Tr.9-10)
- He also promised that “if confirmed I will work diligently to protect the professionalism and integrity of the Department as an institution.” (Tr. 11)
- Barr stated that only the AG and Deputy AG should talk to the White House about criminal investigations (Tr. 54). He also said he would act in accord with the Holder memorandum and other DOJ policies that provide that “initial communications” between the DOJ and the White House “concerning investigations or cases should involve only” the AG or Deputy or Associate AG. (QFR30)
- Barr committed to resigning if someone tried to stop a bona fide lawful investigation to cover up wrongdoing (e.g. in the Southern District of New York), or asked him to do anything that he thought was unlawful. (Tr.180, 185, 82). Barr also stated that he would not fire a U.S. Attorney on the president’s instructions in order to stop an investigation, but specified that the president has the authority to fire U.S. attorneys. (Tr. 87-88)

- Barr will “not support the assertion of executive privilege” if he concludes that it is “designed to cover up a crime” or “evidence of a crime,” and that applies “whether or not an individual is subject to indictment.” (QFR 118) If he concludes that President Trump “has claimed executive privilege to cover up evidence of a crime” over his objections, he “would resign.” (QFR 119)
- Barr will be “committed” to “ensuring the Department’s staffing decisions are made with integrity and without political, ideological, or other prohibited considerations and consistent with civil service law and Departmental policies.” (QFR 20)
- Barr stated that “every enforcement decision” at DOJ “must be based strictly on the laws and the facts, not on partisan, political or personal interests” and he will “ensure” that DOJ “abides by this principle.” (QFR 7)
- Barr committed to following all applicable laws and rules concerning his “prior representation” of Caterpillar Inc., including recusal as needed. (QFR 144)

### **3. Criminal Justice**

#### **A. First Step Act**

- Barr said that he intends to “diligently implement” and “faithfully enforce” the “First Step Act” if confirmed. (Tr.11,29) This includes ensuring that “prosecutors receive implementing guidance” on pending cases “consistent” with the Act. (QFR 84-5)
- Barr stated that he “look[s] forward to reviewing” the Bureau of Prisons’ Residential Reentry Center’s “capacity, needs and funding to fully comply with” the First Step Act.
- Barr committed to “appoint people to that Independent Review Commission [under the First Step Act] who are honest brokers to decide which offenders should be eligible and which programs should be eligible to participate.” (Tr. 50)
- Especially in light of the First Step Act, Barr stated that he “will make it a priority” to fill the vacant position as Director of the Bureau of Prisons (BOP) and will “work” with the president and Congress on BOP funding. (QFR 20, 8x)
- Barr stated “absolutely” that he will help implement the First Step Act and help “design the second step.” (Tr. 46)

## **B. Gun Violence Prevention**

- “As attorney general, I will ensure that we will continue our efforts to combat violent crime.” (Tr.11)
- Barr is “committed to using all tools at the department’s disposal” to “ensure that firearms do not end up in the hands of dangerous people prohibited by law from having them.” (QFR 47)
- Barr believes that “extremist” groups, including “right-wing groups” are a “significant domestic terrorism threat” and stated that he “will vigorously support efforts to investigate domestic terrorism and hold any and all perpetrators accountable.” (QFR 99)

## **C. Hate crimes**

- Barr said, “We must have zero tolerance for such crimes [referring to crimes based on “differences based on race, ethnicity, religion, sexual orientation or political thinking”], and I will make this a priority as attorney general if confirmed.” (Tr. 11)
- Barr is “committed to working with state and local law enforcement and to improving the reporting of crimes, including hate crimes.” (QFR 108, 137)

## **D. Drugs**

- Barr committed to reviewing a letter from Senator Chuck Grassley on marijuana manufacture for scientific research and “the status of pending applications,” as well as a letter on research into a “derivative of marijuana” called CBD, and stated that he supports the “expansion” of such marijuana manufacture “consistent with law.” (QFR 5,6)
- Barr stated that he “will ensure” that the DOJ “continues to prioritize the prosecution of significant drug traffickers rather than drug users or low-level drug offenders.” (QFR 87)
- Barr vowed that he will “continue to prioritize” opioid-related crime and “healthcare fraud prosecutions.” (QFR 153)

## **E. White Collar Crime**

- Barr committed to “prosecuting white collar and corporate criminals just as [he] would street criminals.” (QFR 151)

## **F. Other, Including Surveillance and Treatment of Terrorism Detainees**

- Barr is “committed to following” the Supreme Court decision in the *Carpenter* case that limits law enforcement ability to obtain “cell-site information possessed by the service provider.”
- Barr stated that he and the DOJ “must follow” Supreme Court decisions about the treatment of terrorism-related detainees in *Boumedienne* and *Hamdan*. (QFR 69-70)
- Barr “pledge[d] to abide” by the McCain Detainee Treatment act that “outlawed cruel, inhumane, and degrading treatment.” (QFR 105)
- Barr “will ensure that” the DOJ’s “charging and sentencing policies demand a fair and equal application” of the laws passed by Congress “while providing the necessary flexibility to serve justice.” (QFR 138)
- Under Barr, the DOJ “will continue to focus on prosecution of the most serious cases of trademark counterfeiting, trade secret theft, copyright piracy, and the related criminal statutes protecting intellectual property.” (QFR 163)
- Barr is “committed” to explore using the authority provided by Congress to “ensure” that the U.S. and allies have effective means to obtain “cross-border access to data needed” for criminal investigations. (QFR 165)
- Barr will “ensure that the Juvenile Justice Reform Act of 2018 is effectively and appropriately implemented.” (QFR 203).

## **4. Voting and Elections**

- Barr said that “if confirmed, I will ensure that the full might of our resources are brought to bear against foreign persons who unlawfully interfere in our elections.” (Tr. 11)
- “Fostering confidence in the outcome of elections also means ensuring that the right to vote is fully protected, as well as ensuring the integrity of elections.” (Tr. 11)
- Barr is “firmly committed to protecting and upholding the civil rights and voting rights of all Americans,” and “would make these issues a priority.” (QFR 47-8, 101) This includes “enforcement actions” under Section 2 of the Voting Rights Act. (QFR 148)

## **5. Other Civil Rights**

- Barr repeated his 1991 “pledge to remain vigilant in looking for discrimination and to enforce vigorously federal laws against discrimination.” (QFR 97)
- Barr said he will “ensure that the Department complies with any statutory requirements” concerning the Abolish Human Trafficking Act of 2017. (QFR 1)

- Under Barr, “addressing sexual assault will continue to be a priority” for the DOJ, including grant funding. (QFR 47)
- Barr “will enforce all federal civil rights law enacted by Congress, including the ADA.” (QFR 50)
- Barr pledged he will “enforce” the “2013 reauthorization of VAWA” and is “firmly committed to ensuring” that VAWA programs and funds “are employed in the most effective manner possible.” (QFR 62)
- Barr said he is “committed to working closely” with the DOJ and the FBI to “conduct thorough investigations” and, as warranted, “initiate prosecutions” against police officers “who abuse their authority” and “bring appropriate civil actions against police departments.” (QFR 95)
- Barr stated that he is “firmly committed to fostering a fair, open and equitable workplace” for all DOJ employees “including non-religious” staff. (QFR 141)
- Barr will “work vigorously to uphold and enforce the federal laws within the Civil Rights Division’s jurisdiction.” (QFR 190) This includes laws “with respect to sex-based discrimination.” (QFR 194)

## **6. Congressional Oversight**

- Barr stated that he “understands” that he has an “obligation” to “respond to congressional inquiry” on the FBI and the DOJ “in a timely manner,” and that the “obligation applies regardless” of whether the member is a “committee chairman” or not. He stated that he will use “the same approach” as he did when he was AG “27 years ago” when the DOJ was “able to establish very cooperative and productive relationships with all the members and try to respond to their questions and deal with their concerns and work with them on projects they are interested in.” (Tr. 27-8).
- If there are privilege claims concerning congressional oversight requests, Barr “will follow the established process of ensuring that the Department thoroughly reviews the legal basis for the privilege claim,” and if “satisfied that the claim is “legally permissible,” will “so advise the President in a letter that would be provided to the requesting committee” when the privilege is asserted. (QFR 34)

## **7. Antitrust**

- Barr committed to working “to ensure appropriate and effective criminal and civil [antitrust] enforcement to protect Americans’ interests in low-cost, high-quality health care,” to continuing to make “health care and pharmaceutical sectors” antitrust enforcement a “priority,” and to collaborate with the FTC in that area. (QFR 1)

- Barr committed to “enforcing the antitrust laws in the agriculture sector” which will remain a DOJ “priority.” (QFR 2)
- Barr promised to inform the Committee about possible changes to ASCAP and BMI consent decrees re: performing rights. (QFR 2)
- Barr “promised to work with the Antitrust Division “to enforce the antitrust laws” against anyone who “conspires to fix drug prices” or commit any other anticompetitive conduct in the pharmaceutical industry. (QFR 10)
- Barr said he “will ensure that the Antitrust Division appropriately and effectively enforces all antitrust laws to protect competition and consumers.” (QFR 227)

## **8. Other Laws in Which the DOJ has Responsibility, Including the ACA**

- Barr says he is open to looking at the DOJ’s position in the ACA case *Texas v. U.S.* (Tr. 198) He stated that he “will engage in a review” of DOJ’s position in the case (specifically, the DOJ argument against the constitutionality of the ACA). (QFR 162)
- Barr pledged to “diligently enforce” and enforce “in good faith” the False Claims Act, and to “review” and “discuss” with Sen. Grassley the “Granston memo” from DOJ providing guidance on when DOJ should seek to dismiss FCA cases (Tr.26-7; see also QFR11)
- Barr acknowledged the concern about reported abuses on civil asset forfeiture and stated that he will “get into it and see exactly, you know, what the horror stories are, where the problems and potential abuses are, and also ... whether Attorney General Sessions' guidelines are providing sufficient protection.” (Tr. 48-49).
- Barr stated that he will be as “transparent as possible” consistent with DOJ policies and laws and “will ensure” that all applicable FOIA laws and regulations “are properly followed and fully enforced.” (QFR 69)