

# Top Senate & House Democrats Press DOJ's Chief Ethics Official On Whether He Has Advised Whitaker to Recuse Himself from Overseeing the Investigation

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Nov 12 2018

**Washington, DC** – Top Senate and House Democrats today released a new letter to the Department of Justice's Chief Ethics Official, Assistant Attorney General Lee J. Lofthus, in which they outline the number of serious ethical considerations that should preclude any involvement by President Trump's handpicked Acting Attorney General Matthew Whitaker with the Special Counsel Mueller's investigation, and that require Mr. Whitaker's immediate recusal. In the letter, the Democrats also request that the Department of Justice's chief ethics officer immediately notify them whether he has advised Mr. Whitaker to recuse himself from supervision of the special counsel's investigation.

The letter, signed by Senate Democratic Leader Chuck Schumer, House Democratic Leader Nancy Pelosi, Senate Judiciary Committee Ranking Member Dianne Feinstein, House Judiciary Committee Ranking Member Jerrold Nadler, Senate Select Committee on Intelligence Vice Chairman Mark Warner, House Permanent Select Committee on Intelligence Ranking Member Adam Schiff and House Committee on Oversight and Government Reform Ranking Member Elijah Cummings, includes a number of examples of Mr. Whitaker's many conflicts of interest and hostile statements toward Special Counsel Mueller's investigation. These include Mr. Whitaker's televised statement suggesting that the investigation be defunded or subjected to strict limitations on its scope, a published online opinion piece referring to the investigation as a witch hunt, and a statement in which he pre-judged the outcome of the investigation.

The full text of the Democrats' letter can be found [here](#) and below:

November 11, 2018

The Honorable Lee J. Lofthus  
Assistant Attorney General for Administration  
and Designated Agency Ethics Officer

Department of Justice  
950 Pennsylvania Avenue, NW.  
Washington, DC 20530

Dear Assistant Attorney General Lofthus:

We are writing to you in your capacity as the Justice Department's Designated Agency Ethics Official regarding the supervision of Special Counsel Robert Mueller by Mr. Mark Whitaker, the newly appointed Acting Attorney General. There are serious ethical considerations that require Mr. Whitaker's immediate recusal from any involvement with the Special Counsel investigation of the Russian government's efforts to interfere in the 2016 presidential election.

Mr. Whitaker has a history of hostile statements toward Special Counsel Mueller's investigation, including televised statements suggesting that the investigation be defunded or subjected to strict limitations on its scope. On June 9, 2017—not even a month after the Special Counsel was appointed—Mr. Whitaker stated on a radio show: “There is no criminal obstruction of justice charge to be had here. The evidence is weak. No reasonable prosecutor would bring a case.”<sup>[1]</sup>

On July 26, 2017, Mr. Whitaker stated that he “could see a scenario where Jeff Sessions is replaced with a recess appointment and that attorney general doesn't fire Bob Mueller but he just reduces his budget so low that his investigations grinds to almost a halt.”<sup>[2]</sup> Mr. Whitaker has also made reference to the Special Counsel investigation as “a mere witch hunt” and published an opinion article entitled “Mueller's Investigation of Trump Is Going Too Far” in which he argued that Deputy Attorney General Rod Rosenstein

should place limits on the scope of the investigation.<sup>[3]</sup> He has even claimed publicly that “[t]he left is trying to sow this theory that essentially Russians interfered with the U.S. election. Which has been proven false. They did not have any impact in the election that is very clear from the Obama Administration.”<sup>[4]</sup> This statement demonstrates plainly that Mr. Whitaker has pre-judged the outcome of the Special Counsel investigation.

In addition to his public criticism of the Special Counsel investigation, Mr. Whitaker appears to have troubling conflicts of interest that may also require his recusal from the investigation. In 2014, Mr. Whitaker served as chairman of the campaign of Sam Clovis to be Iowa State Treasurer, and Mr. Whitaker and Mr. Clovis have reportedly remained in close contact.<sup>[5]</sup> Mr. Clovis served as a national co-chairman of the Trump presidential campaign, and in that capacity supervised George Papadopoulos, the Trump foreign policy advisor who sought to set up a meeting between Vladimir Putin and Donald Trump during the 2016 campaign, and who has pleaded guilty to making false statements to the FBI regarding his contacts with agents of the Russian government.<sup>[6]</sup> As you know, following advice from career Department ethics officials, Attorney General Sessions recused from the Special Counsel investigation given his senior role on the Trump campaign and a series of undisclosed contacts with Russian government officials.<sup>[7]</sup>

The official supervising the Special Counsel investigation must be – in both fact and appearance – independent and impartial. Regrettably, Mr. Whitaker’s statements indicate a clear bias against the investigation that would cause a reasonable person to question his impartiality. Allowing a vocal opponent of the investigation to oversee it will severely undermine public confidence in the Justice Department’s work on this critically important matter. Mr. Whitaker’s relationship with Mr. Clovis, who is a grand jury witness in the Special Counsel investigation, as well as Mr. Whitaker’s other entanglements, raise additional concerns about his ability to supervise the investigation independently and impartially.

For these reasons, we request that you immediately notify us in writing regarding whether you, or any other ethics officials at the Justice Department, have advised Mr. Whitaker to recuse from supervision of the Special Counsel investigation, and the basis for that recommendation. We also request that you provide us all ethics guidance the Department has provided to Mr. Whitaker to date.

Sincerely,

Charles E. Schumer

Democratic Leader

U.S. Senate

Nancy Pelosi

Democratic Leader

U.S. House of Representatives

Dianne Feinstein

Ranking Member

Committee on the Judiciary

U.S. Senate

Jerrold Nadler

Ranking Member

Committee on the Judiciary

U.S. House of Representatives

Mark R. Warner

Vice Chairman

Select Committee on Intelligence

U.S. Senate

Adam B. Schiff

Ranking Member

Permanent Select Committee on Intelligence

U.S. House of Representatives

Elijah Cummings

Ranking Member

Committee on Oversight &

Government Reform

U.S. House of Representatives

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[1] The David Webb Show (June 9, 2017) (online at [www.youtube.com/watch?v=IYQzupQzNOQ](http://www.youtube.com/watch?v=IYQzupQzNOQ)).

[2] *CNN Tonight*, CNN (July 26, 2017) (online at <http://transcripts.cnn.com/TRANSCRIPTS/1707/26/cnnt.01.html>).

[3] Matthew Whitaker, *Mueller's Investigation of Trump Is Going Too Far*, CNN (Aug. 6, 2017) (online at [www.cnn.com/2017/08/06/opinions/rosenstein-should-curb-mueller-whittaker-opinion/index.html](http://www.cnn.com/2017/08/06/opinions/rosenstein-should-curb-mueller-whittaker-opinion/index.html)).

[4] *The Chosen Generation Radio Program* (Mar. 3, 2017) (online at [www.youtube.com/watch?v=QCA120DtAhl](http://www.youtube.com/watch?v=QCA120DtAhl)).

[5] *See, e.g., Whitaker's Friendship with Trump Aide Reignites Recusal Debate*, Reuters (Nov. 8, 2018) (online at [www.reuters.com/article/us-usa-trump-whittaker/whittakers-friendship-with-trump-aide-reignites-recusal-debate-idUSKCN1ND2SN](http://www.reuters.com/article/us-usa-trump-whittaker/whittakers-friendship-with-trump-aide-reignites-recusal-debate-idUSKCN1ND2SN)).

[6] Statement of the Offense, *United States v. Papadopoulos* (D.D.C. Oct. 5, 2017) (online at [www.justice.gov/file/1007346/download](http://www.justice.gov/file/1007346/download)).

[7] *Attorney General Sessions Statement on Recusal*, Department of Justice (Mar. 2, 2017) (online at [www.justice.gov/opa/pr/attorney-general-sessions-statement-recusal](http://www.justice.gov/opa/pr/attorney-general-sessions-statement-recusal)).

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