

March 11, 2021

To Attorney General-designate Merrick B. Garland and White House Chief of Staff Ronald A. Klain:

We write to you as a broad coalition of organizations committed to ensuring that the Department of Justice serves the interests of the American people, not those of powerful corporations. The Department of Justice has a key role to play in the struggle for corporate accountability, and we look forward to working with your leadership in the public interest.

American institutions are facing a crisis of public trust. The four disastrous years of Donald Trump's presidency only furthered the decline in public confidence in government, and undoing this damage will be a monumental task. The Biden Administration has an opportunity to begin the process of rebuilding public trust in government through reinvigorating the Department of Justice. This necessitates putting individuals with track records of pursuing corporate accountability in key leadership roles within the department.

**As such, we are concerned by the recent appointments of individuals with backgrounds defending large corporations to the Department of Justice.** Staffing the top law enforcement agency in the United States with individuals with ties to embattled industries or corporations poses a threat to the department's ability to hold corporate actors accountable.

We were distressed by the choice of Brian M. Boynton to serve as acting head of the Civil Division given Boynton's role in seeing through the merger of T-Mobile and Sprint during his time at BigLaw firm WilmerHale.<sup>1</sup> During his time at WilmerHale, he co-authored an article giving advice to medical device and drug companies seeking to avoid liability in the face of COVID-19-related lawsuits, though his name has since been removed.<sup>2</sup> Furthermore, we were concerned by the appointment of Boynton owing to his work on behalf of for-profit college operators. Our concern was seemingly vindicated by his decision to shield former Secretary of Education Elizabeth D. (Betsy) DeVos from legal scrutiny regarding the treatment of for-profit college students during her tenure. According to reporting by *Politico*, "The motion to block the subpoena was signed by Panuccio and Brian Boynton, who recently became acting assistant attorney general in the Biden administration."<sup>3</sup>

The choice of Lisa O. Monaco to serve as Deputy Attorney General is also troubling, owing to ties revealed in her personal financial disclosure agreement dated January 25, 2021.<sup>4</sup> Per the document, Monaco has advised or represented a multitude of corporate giants including Boeing, ExxonMobil, and SoftBank Group. Monaco's record of providing services to Apple stands out as

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<sup>1</sup> <https://www.republicreport.org/2021/biden-justice-dept-hires-for-profit-college-lawyer-and-hes-defending-betsy-devos/>

<sup>2</sup> <https://web.archive.org/web/20201102220743/https://www.wilmerhale.com/en/insights/client-alerts/20200330-immunity-under-the-prep-act-when-does-it-apply-to-private-sector-efforts-to-help-combat-covid19>

<sup>3</sup> <https://www.politico.com/news/2021/02/10/biden-devos-loan-forgiveness-468375>

<sup>4</sup> <https://beta.documentcloud.org/documents/20493763-lisa-monacos-personal-financial-disclosure-statement-jan-25-2021>

especially worrisome as the company is currently subject to federal scrutiny over its anti-competitive business practices.

The appointment of Emily M. Loeb to serve as Assistant Deputy Attorney General is of similar concern, owing to her representation of Apple during the House antitrust investigation against the embattled company. Apple's anti-competitive practices are currently the subject of scrutiny by the Department of Justice and other agencies,<sup>5</sup> and Loeb's appointment threatens the future of efforts to hold Apple accountable. According to reporting by *The National Law Journal*, as a partner at Jenner & Clark, Loeb "also prepared Apple CEO Tim Cook for his appearance at a July congressional hearing alongside fellow tech executives including Amazon CEO Jeff Bezos, Google CEO Sundar Pichai and Facebook CEO Mark Zuckerberg."<sup>6</sup>

Furthermore, reporting by *The American Prospect* indicates that Susan M. Davies, a former partner at BigLaw firm Kirkland & Ellis, is being considered for a role in the Department of Justice. Davies's ties with Facebook make the prospect of her being appointed to a role in the department troubling: Facebook is the subject of federal scrutiny owing to its anti-competitive practices, being accused by the Federal Trade Commission (FTC) of engaging in monopolistic behavior.<sup>7</sup> As such, the prospect of an individual who represented the embattled company in a 2012 lawsuit related to Facebook's anti-competitive advertising policies in a federal role is distressing.<sup>8</sup>

We find these appointments to be of particular concern in light of recent reports that indicate that Karen L. Dunn and Jamie S. Gorelick are gaining influence within the Department of Justice, even though they are unlikely to receive formal appointments. According to reporting by *The American Prospect*, Dunn helped prepare Attorney General-designate Garland during Senate confirmation proceedings.<sup>9</sup> This is worrisome because Dunn has represented rideshare giant Uber,<sup>10</sup> embattled Amazon CEO Jeffrey P. (Jeff) Bezos during the House antitrust hearings on Big Tech, as well as Apple.<sup>11</sup> Dunn's ties to these corporate giants means her influence over the Department of Justice threatens the prospect of holding these corporations accountable.

Per the same report by *The American Prospect*, "[s]ince the announcement of Garland's appointment, Gorelick has been advertising her access to him. WilmerHale, the firm at which

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<https://www.forbes.com/sites/ewanspence/2021/02/26/apple-news-headlines-iphone-13-confirmed-macbook-pro-m1-ssd-macos-malware-airpods/?sh=6c55289b5861>

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<https://www.law.com/nationallawjournal/2021/01/25/emily-loeb-jenner-partner-and-co-founder-of-protect-democracy-join-biden-doj/>

<sup>7</sup> <https://www.nytimes.com/2020/12/09/technology/facebook-antitrust-monopoly.html>

<sup>8</sup> <https://dockets.justia.com/docket/california/casdce/3:2012cv00668/379166>

<sup>9</sup> <https://prospect.org/cabinet-watch/corporate-lawyers-line-up-for-justice-department-top-slots/>

<sup>10</sup>

<https://www.reuters.com/article/lawyer-moves-boies-schiller/karen-dunn-bill-isaacson-leave-boies-schiller-for-paul-weiss-idUSL1N2DP0HX>

<sup>11</sup> <https://www.law.com/litigationdaily/2019/03/22/litigator-of-the-week-boies-schillers-dunn-scores-in-clash-of-tech-titan/>

she's a partner, ran an article about their proximity, boasting her appearance on three legal podcasts where she details her unique personal connection and forecasts what Garland's confirmation means for the future of the Department of Justice, before subsequently deleting the page." Gorelick has close ties with Google, a company that hired her for her services during an federal antitrust investigation.<sup>12</sup> We also note that Gorelick was appointed to the board of directors of Amazon,<sup>13</sup> a company that has also faced recent scrutiny from the federal government for its anti-competitive business practices.<sup>14</sup> Additionally, Gorelick assisted petroleum giant BP when it sought to avoid penalties in the aftermath of the 2010 Gulf of Mexico oil spill,<sup>15</sup> and previously represented Jared Kushner during the federal investigation into members of the Trump Administration's financial ties with Russian companies.<sup>16</sup> As such, it is deeply distressing that Gorelick appears set to wield influence within the Department of Justice without even holding a formal role.

**As the Biden Administration looks to fill remaining positions within the Department of Justice and elsewhere, we ask that advocates of corporate accountability, not individuals with deep ties to corporate actors, be prioritized during the appointment process. In addition, we respectfully submit that the above-named individuals who already have been hired to the Department should be recused from all matters, including personnel selection, relating to antitrust or other areas that could impact adversely corporations that they previously advised.**

Sincerely,  
18 Million Rising  
Action Center on Race and the Economy  
American Economic Liberties Project  
Americans for Democracy & Human Rights in Bahrain  
Americans for Financial Reform  
Athena  
Blue Future  
Businesses for a Livable Climate  
CAIR SD  
Call to Action Colorado  
CatholicNetwork.US  
Center for Biological Diversity  
Center for Popular Democracy  
Climate Hawks Vote  
CODEPINK  
Colorado Businesses for a Livable Climate

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<sup>12</sup> <https://www.wsj.com/articles/meet-the-lawyer-trying-to-keep-google-from-being-broken-up-11608373801>

<sup>13</sup> <https://ir.aboutamazon.com/officers-and-directors/default.aspx>

<sup>14</sup> <https://www.cnbc.com/2020/12/14/ftc-orders-amazon-facebook-and-others-to-explain-how-they-use-personal-data.html>

<sup>15</sup> <https://www.wsj.com/articles/SB10001424052748704638504575319080942638278>

<sup>16</sup> <https://www.theatlantic.com/politics/archive/2017/06/mueller-kushner-trump-russia/530559/>

Consumer Action  
Courage California  
Debt Collective  
Demand Progress Education Fund  
Democracy for America  
Democratic Policy Center  
Fight for the Future  
Fix Democracy First  
Friends of the Earth U.S.  
Greenpeace  
Institute for Local Self-Reliance  
Jobs with Justice  
Oil Change US  
Our Revolution  
Peace Action  
People's Parity Project  
Presente  
Progress America  
Project Blueprint  
RapidShift Network  
Revolving Door Project  
RootsAction.org  
Social Security Works  
SumOfUs  
The Freedom BLOC  
The Grassroots Collective  
The Other 98%  
The X-Lab  
United for Respect  
Western New York Peace Center