

April 17, 2018

Dear Senators,

As former elected Republicans, and former federal judges and prosecutors appointed by Republicans, we urge you to pass the recently introduced, bipartisan, *Special Counsel Independence and Integrity Act*, sponsored by Senators Graham (R-SC), Coons (D-DE), Tillis (R-NC), and Booker (D-NJ). We believe that it is in the best interest of our country for Special Counsel Robert Mueller to be allowed to complete his investigation without undue interference.

This legislation would protect the special counsel from unjustified removal by providing that he “may only be removed for misconduct, dereliction of duty, incapacity, conflict of interest, or other good cause, including violation of policies of the Department of Justice.” Justice Department regulations already protect the Special Counsel against removal without cause,¹ however those regulations may be amended or rescinded. Codifying the special counsel’s independence in law will ensure the integrity of the investigation by shielding the position from political interference.

New reporting points to an increased threat that the President may order removal of the special counsel before he concludes his investigation.² This legislation is necessary to ensure that if the President directs removal of the special counsel, he will need to have a legitimate reason to do so. The legislation does not elevate the Special Counsel to a position where he is untouchable by the President; instead, it merely introduces measures to ensure that any action taken against the Special Counsel is consistent with upholding the rule of law. The legislation is also consistent with the United States Supreme Court’s 1988 decision in *Morrison v. Olson*,³ as it is narrowly and reasonably drafted to ensure it does not impede on the President’s constitutional appointment authority. The Court went so far as to say that “[t]he congressional determination to limit the Attorney General’s removal power was essential, in Congress’ view, to establish the necessary independence of the office of independent counsel.”⁴

Major investigations into matters central to our nation are not new. When critical questions arise about core issues pertaining to our democratic process--in this case, foreign interference in our elections and the legality of conduct of top government officials--independent investigations can get the answers the public needs and deserves. During key moments in our history, there have been investigations into allegations of official wrongdoing. The results led to major and necessary reforms.

We urge you to support the work of Special Counsel Mueller to its conclusion, whatever it may be. We believe that inappropriate interference in the special counsel’s investigation would

¹ 28 CFR 600.7(d)

² Jennifer Glatz, “Trump and Aides Have Discussed Firing Mueller for Months, Sources Say,” *Fox61*, April 11, 2018. <http://fox61.com/2018/04/11/trump-and-aides-have-discussed-firing-mueller-for-months-source-says/> (Downloaded April 11, 2018)

³ 487 U.S. 654,657 (1988) (holding that “[the] provision restricting the Attorney General’s power to remove the independent counsel to only those instances in which he can show “good cause,” taken by itself, does not impermissibly interfere with the President’s exercise of his constitutionally appointed functions.”).

⁴ *Id.* at 658.

constitute a serious attack on our democratic institutions and the rule of law. Regardless of party affiliation, this should be of profound concern to every American—particularly those we elect to represent us.

Sincerely,

Lourdes G. Baird

Judge, United States District Court for the Central District of California, 1992-2005; United States Attorney, Central District of California, 1990-1992 (appointed by President George H.W. Bush)

Charles Bass

Former Member, U.S. House of Representatives (R-NH), 1995-2007, 2011-2013

William G. Bassler

Judge, United States District Court for the District of New Jersey, 1991-2006 (appointed by President George H. W. Bush)

Robert E. Bauman

Former Member, U.S. House of Representatives (R-MD), 1973-1981

Douglas Bereuter

Former Member, U.S. House of Representatives (R-NE), 1979-2004

Sherwood Boehlert

Former Member, U.S. House of Representatives (R-NY), 1983-2007

John W. Buechner

Former Member, U.S. House of Representatives (R-MO), 1987-1991

Arne Carlson

Governor of Minnesota (R), 1991-1999

Rodney Chandler

Former Member, U.S. House of Representatives (R-WA), 1983-1993

Earl Thomas Coleman

Former Member, U.S. House of Representatives (R-MO), 1976-1993

William B. Cummings

United States Attorney for the Eastern District of Virginia, 1975-1979 (appointed by President Gerald Ford)

W. Thomas Dillard

United States Attorney for the Eastern District of Florida, 1983-1986 (appointed by President Ronald Reagan)

David Durenberger
Former Member, United States Senate (R-MN), 1976-1995

Mickey Edwards
Former Chair, House Republican Policy Committee and Member, U.S. House of Representatives (R-OK), 1977-1993

David F. Emery
Former Member, U.S. House of Representatives and Chief Deputy Republican Whip (R-ME), 1975-1983

Bruce Fein
Associate Deputy Attorney General, 1981-1983 (under President Ronald Reagan)

Wayne Gilchrest
Former Member, U.S. House of Representatives (R-MD), 1991-2009

Gordon Humphrey
Former Member, United States Senate (R-NH), 1979-1990

David Iglesias
United States Attorney for the District of New Mexico, 2001-2006 (appointed by President George W. Bush)

Robert Inglis
Former Member, U.S. House of Representatives (R-SC), 1993-1999, 2005-2011

James Leach
Former Member, U.S. House of Representatives (R-IA), 1977-2007

Timothy K. Lewis
Judge, United States Court of Appeals for the Third Circuit, 1992-1999; United States District Court for the Western District of Pennsylvania, 1991-1992 (appointed by President George H.W. Bush)

John S. Martin
Judge, United States District Court for the Southern District of New York, 1990-2003 (appointed by President George H.W. Bush)

Paul Norton McCloskey
Member, U.S. House of Representatives (R-CA), 1967-1975

Connie Morella
Former Member, U.S. House of Representatives (R-MD), 1987-2003

Robert O'Connor
Judge, United States District Court for the Southern District of Texas, 1975-1985 (nominated by President Gerald Ford)

Michael Parker
Former Member, U.S. House of Representatives (D, R-MS), 1989-1999

Thomas Petri
Former Member, U.S. House of Representatives (R-WI), 1979-2015

John Edward Porter
Former Member, U S House of Representatives (R-IL), 1980-2001

Larry Pressler
Former Member, U.S. Senate (R-SD), 1979-1997; Former Member, U.S. House of Representatives (R-SD), 1975-1979

Claudine Schneider
Former Member, U.S. House of Representatives (R-RI), 1981-1991

John J.H. Schwarz
Former Member, U.S. House of Representatives (R-MI), 2005-2007

Christopher Shays
Former Member, U.S. House of Representatives (R-CT), 1987-2009

Fern Smith
Judge, United States District Court for the Northern District of California, 1988-2005 (appointed by President Ronald Reagan)

Peter Smith
Former Member, U.S. House of Representatives (R-VT), 1989-1991

James T. Walsh
Former Member, U.S. House of Representatives (R-NY), 1993-2009

James J. West
United States Attorney for the Middle District of Pennsylvania, 1985-1993 (appointed by President Ronald Reagan)

Christine Todd Whitman
Former EPA Administrator, 2001-2003; former Governor of New Jersey (R), 1994-2001