

AMY KLOBUCHAR  
MINNESOTA

United States Senate  
WASHINGTON, DC 20510

COMMITTEES:  
AGRICULTURE, NUTRITION,  
AND FORESTRY  
COMMERCE, SCIENCE,  
AND TRANSPORTATION  
JOINT ECONOMIC COMMITTEE  
JUDICIARY  
RULES AND ADMINISTRATION

October 2, 2019

Commissioner Ellen L. Weintraub, Chair  
Commissioner Caroline Hunter, Vice-Chair  
Commissioner Steven Walther, Commissioner  
Federal Election Commission  
1050 First Street NE  
Washington, D.C. 20463

Dear Commissioners,

I write, as Ranking Member of the Rules Committee with jurisdiction over federal elections, to express concern regarding reports of the Department of Justice's (Department) alleged failure to follow a memorandum of understanding (MOU)<sup>1</sup> with the Federal Election Commission (FEC) by not referring its investigation of President Trump for potential campaign-finance violations to your agency.<sup>2</sup>

Per the 1978 MOU, the Department is required to refer potential federal campaign violations to the FEC. Specifically, "When the Department [DOJ] determines that evidence of a probable violation . . . does not amount to a significant and substantial knowing and willful violation . . . the department will refer the matter to the Commission [FEC] as promptly as possible. . ."

The MOU sets forth explicit steps for the Department on referring potential civil violations to the FEC. A civil violation need only demonstrate a "preponderance of evidence" and the Department is required to report the evidence to the FEC when it does not meet criminal prosecution standards. There are public reports alleging that the Department determined that a foreign government's investigation of the President's political rival could not be quantified as "a thing of value," and therefore no further action was warranted.<sup>3</sup>

The FEC's jurisdiction over federal elections provides it with tools not at the Department's disposal, such as the ability to impose civil penalties. While the Department reportedly found no probable criminal violation, the MOU clearly dictates that the Department refer the evidence to

---

<sup>1</sup> 43 Fed. Reg. 5441

<sup>2</sup> Neal K. Katyal and Joshua A. Geltzer, *Was There Another Cover-Up In Response to the Whistle-Blower?*, NYT (Oct. 2, 2019), <https://www.nytimes.com/2019/10/02/opinion/trump-whistleblower-fec.html>.

<sup>3</sup> Devlin Barrett, Matt Zapotosky, Carol D. Leonnig and Shane Harris, *Trump offered Ukrainian president Justice Dept. help in an investigation of Biden, memo shows*, Washington Post, (Sept. 26, 2019), [https://www.washingtonpost.com/national-security/transcript-of-trumps-call-with-ukrainian-president-shows-him-offering-us-assistance-for-biden-investigation/2019/09/25/16aa36ca-df0f-11e9-8dc8-498eabc129a0\\_story.html](https://www.washingtonpost.com/national-security/transcript-of-trumps-call-with-ukrainian-president-shows-him-offering-us-assistance-for-biden-investigation/2019/09/25/16aa36ca-df0f-11e9-8dc8-498eabc129a0_story.html).

the FEC so that it may determine if a non-criminal violation of campaign finance law occurred. Failure to report the evidence directly contradicts the still in effect MOU which FEC commissioners have cited in recent years.<sup>1</sup>

Accordingly, we respectfully request answers by October 9<sup>th</sup> to the following questions:

1. Did the Department notify you that it received a campaign finance complaint against the President?
2. Did the Department refer the matter to you after it declined to pursue the complaint?
3. Do you agree with the Department's assessment that a foreign government's investigation of the President's political rival could not be quantified as a "thing of value"?

Sincerely,



---

Amy Klobuchar  
United States Senator

---

<sup>1</sup> Background Information Regarding Proposed Enforcement Manual, FEC, <https://www.fec.gov/resources/about-fec/commissioners/mcgahn/statements/13-21-k.pdf>.