

January 7, 2026

Suzanne Drouet, Esq.
Counsel
Office of Professional Responsibility
Department of Justice
950 Pennsylvania Avenue NW, Suite 3266
Washington DC 20530

RE: OPR Complaint Concerning Potential Professional Misconduct by OLC in Justifying the Invasion of Venezuela and Abduction of President Maduro and His Wife

Dear Ms. Drouet,

We write as former ethics counsels for Presidents George W. Bush, Barack Obama, and Bill Clinton. On December 9, 2025, we filed a complaint requesting that the Office of Professional Responsibility (OPR) institute an immediate investigation into whether members of the Office of Legal Counsel (OLC) violated their professional legal responsibilities in providing legal guidance justifying the unilateral use of lethal force on the high seas against civilian foreign nationals, including alleged drug smugglers.¹ We write now to request an additional OPR investigation into whether OLC lawyers or other Department of Justice lawyers violated their professional legal responsibilities in providing guidance justifying the recent invasion of Venezuela and abduction of its president, Nicolas Maduro and his wife Cilia Flores, as well as legal advice that has apparently been given by the Department to President Trump to justify his recent threats to take additional military action against Venezuela, Columbia, Cuba, Iran and Denmark.

Such unilateral use of military force absent an imminent threat to the United States violates international law and furthermore unconstitutionally intrudes on the power that rests with Congress alone to declare war.² In sum, the President and the Department of Defense (DoD), presumably relying on yet another confidential and classified memorandum from OLC, or perhaps more than one memorandum, have engaged in illegal acts of war and threats of illegal acts of war against sovereign nations.

As we pointed out in our previous letter, lawyers within OLC have an ethical obligation to avoid assisting a client, including an organizational client, from engaging in conduct that the lawyer knows or should know is illegal. Yet no reasonable analysis could support the conclusion that the United States had a legal right to invade Venezuela and abduct its president. It is

¹ Letter from Amb. Norman Eisen, Richard Painter & Virginia Canter to the Department of Justice, Office of Professional Responsibility (Dec. 9, 2025) (as amended Dec. 16, 2026), [fb1cd5_e9c5a5861f184ec9a347cd77c741c37d.pdf](https://www.justsecurity.org/128211/congress-president-military-force-venezuela/).

² Brian Egan, Tess Bridgeman & Ryan Goodman, *Congress, the President, and the Use of Military Force in Venezuela*, Just Security (Jan. 7, 2026), <https://www.justsecurity.org/128211/congress-president-military-force-venezuela/>; Micheal Schmitt, Ryan Goodman & Tess Bridgeman, *International Law and the U.S. Military and Law Enforcement Operations in Venezuela*, Just Security (Jan. 5, 2026), <https://www.justsecurity.org/127981/international-law-venezuela-maduro/>;

irrelevant that Maduro was allegedly involved in narcotics trafficking and was under indictment in the United States. It is also irrelevant that Maduro apparently lost an election in Venezuela but remained in power. Such internal affairs are irrelevant to the laws of war.

As we also explained in our previous letter, pursuant to 28 U.S.C. § 530B, lawyers with the Department of Justice, including OLC, are “subject to State laws and rules, and local Federal court rules, governing attorneys in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State.”³ Department regulations explain that “Section 530B imposes on Department attorneys the same rules of professional responsibility that apply to non-Department attorneys.”⁴ Attorneys within OLC have a special responsibility to provide fair and balanced legal analysis, given that their opinions are relied on heavily by the President, Department heads, and agency officials. OLC’s own best practices memo reflects this responsibility, stating that “OLC must always give candid, independent, and principled advice—even when that advice is inconsistent with the aims of policymakers.”⁵ The American Bar Association Model Rules of Professional Conduct (MRPC), require that all attorneys operate competently and independently and may never “counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent.”⁶

And yet the president’s military actions in Venezuela, and his threats against Venezuela and other countries, far exceed his constitutional role as commander in chief. Congress—and only Congress—has the authority to declare war. The president’s role as Commander in Chief is not to initiate wars; it is to conduct wars authorized by Congress. Although the Department of Justice has issued a long line of increasingly broad justifications for the president to use military force absent congressional approval, the Supreme Court has recognized an inherent right to engage in self-defense only for the purpose of “repelling attacks.”⁷

Whatever may be said of the Justice Department’s earlier opinions—which go far beyond what the framers intended - the argument that the president can simply attack a nation and then call it self-defense is foundationally flawed on a purely logical level. In the case of Venezuela, the United States simply cannot claim it is acting in self-defense of a purported imminent or actual armed attack. Furthermore, Maduro’s forcible abduction from Venezuela was a violation of international law. Basic principles of international law provide that one nation cannot simply infringe on the territorial integrity of another. Article 2(4) of the U.N. Charter—which Congress has bound presidents to follow —requires nations to “refrain in [its] international relations from the ... use of force against the territorial integrity or political independence of any [other] state.”⁸ The only exception, absent authorization by the U.N. Security Council, is Article 51, which provides for the inherent right of self-defense if an armed attack occurs against a member.⁹ But

³ 28 U.S.C. § 530B.

⁴ 28 C.F.R. § 77.1(c).

⁵ David J. Barron, Acting Assistant Attorney General, *Memorandum RE: Best Practices for OLC Legal Advice and Written Opinions* (July 16, 2010), <https://www.justice.gov/olc/page/file/1511836/dl?inline>.

⁶ Rule 1.1 (“Competence”), Rule 1.2(d) (providing that a lawyer “shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent”), and Rule 2.1 (requiring a lawyer in advising a client to exercise independent professional judgment and render candid advice).

⁷ *Prize Cases*, 67 U.S. 635 (1862).

⁸ UN Charter art. 2(4).

⁹ UN Charter art. 51.

drug trafficking simply isn't an armed attack that triggers the inherent right of self-defense under international law. Unfortunately, as was shown by Trump's missile strikes on Iran last spring,¹⁰ this is not the first time the administration has appeared to provide contorted legal reasoning to avoid actual compliance with international law obligations. Furthermore President Trump's own words reveal that his primary motivation for the attack on Venezuela was not narcotics, but access to oil.¹¹

We are deeply concerned that, as with the infamous torture memos OLC supplied to DoD and to the intelligence community after the 9-11 terrorist attacks, OLC's written advice in this instance has yet again been withheld from the public and classified, impeding public scrutiny of OLC's legal reasoning and the validity of its factual assumptions.¹² The Department of Justice should declassify the memos in their entirety or at least the vast majority of the text of these memos which contains OLC's legal reasoning or its factual assumptions underlying that reasoning. Classification could at most be justified only for information which needs to be protected, and in this instance the United States has already fully disclosed its case against Maduro in an indictment in federal court.¹³ The legal reasoning for his apprehension in Venezuela and the United States violation of Venezuelan sovereignty cannot possibly involve information that needs to be classified to protect our national security.

As a result, we respectfully request that you consider whether OLC has applied appropriate classification standards or has classified the opinion as a means of hiding the legal basis for invasion of Venezuela and abduction of its president, Nicolas Maduro and his wife Cilia Flores.

Sincerely,

/s/ Norman L. Eisen
Former Special Counsel to President Barack Obama

/s/ Richard W. Painter
Former Associate Counsel to President George W. Bush

/s/ Virginia Canter
Former Associate Counsel to President Barack Obama and President Bill Clinton

CC: Chair, Senate Committee on Armed Services
Ranking Member, Senate Committee on Armed Services

¹⁰ Jon Gambrell, et al., *Alarm Grows After the US Inserts Itself into Israel's War Against Iran With Strikes on Nuclear Sites*, AP News (June 23, 2025), <https://apnews.com/article/israel-iran-war-nuclear-trump-bomber-news-06-22-2025-c2baca52babe915e033ae175ce8b2687>.

¹¹ Anton Troianovski, *Trump Long Wanted to 'Take the Oil.' He Says He'll Do It in Venezuela*, N.Y. Times (Jan. 3, 2026), <https://www.nytimes.com/2026/01/03/us/politics/trump-venezuela-oil.html>.

¹² Oona A. Hathaway, *Secrecy's End*, 106 Minn. L. Rev. 691 (2021).

¹³ United States v. Maduro, et al., S4-11-Cr. 205, available here <https://www.nytimes.com/interactive/2026/01/03/nyregion/venezuela-maduro-indictment.html>.

Chair, Senate Select Committee on Intelligence
Ranking Member, Senate Select Committee on Intelligence
Chair, Senate Committee on the Judiciary
Ranking Member, Senate Committee on the Judiciary
Chair, House Armed Services Committee
Ranking Member, House Armed Services Committee
Chair, House Permanent Select Committee on Intelligence
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