



September 4, 2025

Hon. Jeanine Pirro  
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the District of Columbia  
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U.S. Attorney Pirro:

Democracy Defenders Fund (DDF) requests an investigation into whether Apple, Inc., Chief Executive Officer Tim Cook violated 18 U.S.C. § 201(c)(1)(A) when he gave President Trump a custom engraved glass disc with a 24k gold base during an official White House press conference. The gift was given at the same time President Trump and Mr. Cook jointly announced a \$100 billion investment in the U.S. and contemporaneous with a special exemption the President provided to Apple for imported smartphones from India. Given the circumstances and timing of the gift and associated “official acts” the President is undertaking in relation to Apple, DDF believes that Tim Cook’s provision of the gift may have constituted an illegal gratuity.

## **I. Background**

While campaigning for his second term, President Trump said that “the most beautiful word in the dictionary to me is tariff.”<sup>1</sup> Since entering office, President Trump has levied tariffs on imports from countries around the globe in efforts to motivate companies to move their production into the United States.<sup>2</sup> Technology companies, including smartphone manufacturers, have become a subject of repeated scrutiny from President Trump in part because of the amount of production done outside of the United States.<sup>3</sup>

Apple, Inc., is one of the biggest technology companies in the world, with a current market capitalization of over \$3.4 trillion.<sup>4</sup> As Apple explained in its most recent annual SEC Form 10-K:

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<sup>1</sup> John McCormick, *Trump Calls Tariffs the ‘Most Beautiful Word’*, Wall St. J. (Oct. 16, 2024), <https://www.wsj.com/livecoverage/harris-trump-election-10-16-2024/card/trump-calls-tariffs-the-most-beautiful-word--YMVPAupw4EjBRp6yobOy?msockid=3da182519d1667ae064094489c116663>

<sup>2</sup> Rachel Wilson, et al., *These are the Countries Affected by Trump’s Latest Tariffs*, CNN (Aug. 1, 2025), <https://www.cnn.com/2025/08/01/business/trump-tariffs-countries-list-vis>

<sup>3</sup> Julia Shapero, *Why Trump’s Tariffs are So Bad For Big Tech*, The Hill (April 4, 2025), <https://thehill.com/policy/technology/5231124-trump-tariffs-tech-industry/>.

<sup>4</sup> Daniel Foelber, *After Gaining \$394 Billion in Market Cap in 3 Days, Is Apple Stock on its Way to Joining Nvidia and Microsoft in the \$4 Trillion Club?*, The Motley Fool (Aug. 6, 2025), <https://www.fool.com/investing/2025/08/16/after-gaining-394-billion-in-market-cap-in-3-days/?msockid=3da182519d1667ae064094489c116663>

Substantially all of the Company's manufacturing is performed in whole or in part by outsourcing partners located primarily in China mainland, India, Japan, South Korea, Taiwan and Vietnam. Restrictions on international trade, such as tariffs and other controls on imports or exports of goods, technology or data, can materially adversely affect the Company's business and supply chain. The impact can be particularly significant if these restrictive measures apply to countries and regions where the Company derives a significant portion of its revenues and/or has significant supply chain operations.<sup>5</sup>

Apple recently announced that most of its U.S.-bound iPhones will be manufactured in India by the end of 2026.<sup>6</sup> Given its immense overseas infrastructure, including in India, it is not surprising that Apple CEO Tim Cook explained that they expected to see over \$1.1 billion in tariff related expenses in just the next fiscal quarter.<sup>7</sup> External reports suggest that the Administration's proposed tariffs could cost Apple upwards of \$40 billion.<sup>8</sup>

In President Trump's first administration, Apple was able to successfully lobby for several tariff exemptions.<sup>9</sup> Apple appears to be taking similar steps this Administration. For example, Apple CEO Tim Cook donated \$1 million to Mr. Trump's inauguration, and Apple pledged in February of this year that it would invest \$500 billion in the United States over the next four years.<sup>10</sup>

Notwithstanding Apple's commitment to invest \$500 billion in the United States, President Trump and his Administration have increasingly threatened Apple for failing to move iPhone manufacturing to America. For example, Howard Lutnick, Commerce Secretary said "We all hold our iPhones, which we love. Why do they have to be made in Taiwan and China? . . . [a]nd you know what Donald Trump has said? They're going to be made in America."<sup>11</sup> The iPhone in particular has become a point of tension between the United States government and Apple since

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<sup>5</sup> Apple Inc., 2024 Form 10-K, at 6 (November 2024),

<https://www.sec.gov/ix?doc=/Archives/edgar/data/0000320193/000032019324000123/aapl-20240928.htm>.

<sup>6</sup> Musif Vengattil, *Apple moving to make most iPhones for US in India rather than China, source says*, Reuters (April 25, 2025),

<https://www.reuters.com/world/china/apple-aims-source-all-us-iphones-india-pivot-away-china-ft-reports-2025-04-25/>.

<sup>7</sup> Caleb Naysmith, *Apple Expects \$1.1 Billion Tariff Hit in 4th Quarter After \$800 Million Q3 Hit; CEO Tim Cook Warns 'Many Factors That Could Change'*, Barchart, (August 18, 2025),

<https://www.barchart.com/story/news/34221586/apple-expects-1-1-billion-tariff-hit-in-4th-quarter-after-800-million-q3-hit-ceo-tim-cook-warns-many-factors-that-could-change>.

<sup>8</sup> Akash Sriram, *A \$2,300 Apple iPhone? Trump tariffs could make that happen.*, Reuters (April 4, 2025),

<https://www.reuters.com/technology/will-trump-tariffs-make-apple-iphones-more-expensive-2025-04-03/>.

<sup>9</sup> Tony Romm & Damian Paletta, *Trump's tariffs won't bite Apple, illustrating Tim Cook's political sway*, Wash. Post (September 18, 2018),

<https://www.washingtonpost.com/technology/2018/09/18/trumps-tariffs-wont-bite-apple-illustrating-tim-cooks-political-sway/>.

<sup>10</sup> Meaghan Tobin, et al., *Apple Vows to Build A.I. Servers in Houston and Spend \$500 Billion in U.S.*, N.Y. Times (Feb. 24, 2025), [Apple Plans to Invest \\$500 Billion in U.S. as Trump Tariffs Loom - The New York Times](https://www.nytimes.com/2025/02/24/technology/apple-ai-servers-houston-500-billion-us.html)

<sup>11</sup> CNBC Television. (April 3, 2025), *Watch CNBC's full interview with Commerce Secretary Howard Lutnick*, YouTube. <https://youtu.be/iPip86kGWcY?feature=shared>.

the vast majority of Apple's supply chain remains outside the United States.<sup>12</sup> Analysts have stated that moving production of the iPhone stateside would be infeasible and could nearly triple the cost of the iPhone.<sup>13</sup>

In response, President Trump has threatened to impose tariffs specifically on Apple. For example, at a May 15, 2025, press conference, President Trump told reporters:

I had a little problem with Tim Cook yesterday. I said to him Tim you're my friend I have treated you very good. You're coming in with 500 billion dollars but now you're building all over India. I don't want you building in India. You can build in India if you want to take care of India, cause India is the highest one, one of the highest tariff nations in the world. It's very hard to sell into India...But I said to Tim, we've treated you really good. We've put up with all the plants that you built in China, for years. Now you've got to build us, we're not interested in you building in India. India can take care of themselves, they're doing very well. We want you to build here and they're going to be upping their production in the United States, Apple.<sup>14</sup>

President Trump ramped up his concerns with Apple's manufacturing in India a little over a week later with a post on Truth Social:

I have long ago informed Tim Cook of Apple that I expect their iPhone's that will be sold in the United States of America will be manufactured and built in the United States, not India, or anyplace else. If that is not the case, a Tariff of at least 25% must be paid by Apple to the U.S. Thank your for your attention to this matter!<sup>15</sup>

When asked by reporters later that day whether the 25% tariff would apply to just Apple products Trump specified that:

I had an understanding with Tim that he wouldn't be doing this. He said he was going to India to build plants. I said that's ok to go to India but you're not going to sell in to here without tariffs....the iPhone, if they are going to sell it in America I want it to be built in the United States. They are able to do that.<sup>16</sup>

Amongst the mounting threats of potential tariffs, Apple CEO Tim Cook met with President Trump in the Oval Office on August 6, 2025. The President and Apple CEO announced that

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<sup>12</sup> Richard Luscomb, *White House Insists iPhones will be US-Made – but Apples Calls It a Non-starter*, The Guardian (Apr 9, 2025), <https://www.theguardian.com/us-news/2025/apr/09/trump-apple-iphones-made-in-usa>.

<sup>13</sup> Kif Leswing, *Here's how much a 'Made in the USA' iPhone would cost*, CNBC (Apr. 11, 2025), <https://www.cnbc.com/2025/04/11/heres-how-much-a-made-in-the-usa-iphone-would-cost.html>.

<sup>14</sup> Bloomberg Podcasts. (May 15, 2025), *Trump Talks American Made iPhone, India & Iran At Qatar Meeting (Full Remarks)*, YouTube. <https://www.youtube.com/watch?v=q-zbld7W71A>.

<sup>15</sup> Trump, Donald [@realDonaldTrump], (May 23, 2025), <https://truthsocial.com/@realDonaldTrump/114556874484491575>.

<sup>16</sup> Bloomberg Television (May 23, 2025), *Trump Warns 25% Tariffs for Imported Samsung Product*, YouTube (Last Visited Sept. 4, 2025), <https://www.youtube.com/watch?v=hKZCuDFrjw0&t=112s>.

Apple would be investing another \$100 billion dollars—over the existing \$500 billion pledge—into its United States operations as part of a new “Apple American Manufacturing Program.”<sup>17</sup>

During that meeting Tim Cook presented the President with a one-of-a-kind engraved glass disc that states on the top “President Donald J. Trump, Apple American Manufacturing Program” and on the bottom has Tim Cook’s signature and “Made in USA, 2025.”<sup>18</sup> Included in the gift: a 24-karat gold brick stand for the glass disc to sit on. Given the size of the gold brick, some experts have suggested that the stand could be worth upwards of \$1 million.<sup>19</sup> Although the actual cost of the gold brick stand is unknown, a troy ounce of gold—which is about the size of a U.S. quarter—is currently priced around \$3,500 dollars.<sup>20</sup> After presenting the gift to the President, Tim Cook said “Congratulations Mr. President, thank you so much.”<sup>21</sup>

A few minutes later, President Trump proclaimed that Apple would be exempt from upcoming tariffs, saying, “the good news for companies like Apple is if you’re building in the United States or have committed to build, without question, committed to build in the United States, there will be no charge.”<sup>22</sup> That same day, President Trump signed Executive Order 14329,<sup>23</sup> which imposed a 50% tariff on imports from India. Apple and other smartphone manufacturers were fully exempted from the application of this tariff.<sup>24</sup>

## II. Law

*In despotic countries the usage is that one does not approach a superior, even a king, without giving him a present.*

- Montesquieu, Spirit of the Laws<sup>25</sup>

America is not a despotic country, and Congress has seen fit to establish limits on when public officials, such as the President, can solicit and accept bribes, gratuities, and gifts. Congress has also prohibited members of the public from paying bribes or providing inappropriate gratuities to public officials. Among these laws is 18 U.S.C. § 201(c)(1)(A), often referred to as the “illegal

<sup>17</sup> Vynck, et al., *Trump threatens 100% tariffs on computer chips for companies that don’t build in U.S.*, Wash. Post (August 6, 2025),

<https://www.washingtonpost.com/technology/2025/08/06/trump-apple-investment-chips-tariffs-cook/>.

<sup>18</sup> The Independent (Aug 7, 2025), *Apple CEO Presents Trump with 24-Karat Gold and Glass Statute*, YouTube (last visited Aug. 27, 2025), <https://www.youtube.com/watch?v=wnqloTNZxII&t=2s>.

<sup>19</sup> Adrian Volenik, *If You Want To Bribe Trump, Bring Gold—Not Bitcoin’. An Economist Claims Apple Got Tariff Relief On Semiconductors For Cheap*, Yahoo! Finance, (August 8, 2025), <https://finance.yahoo.com/news/want-bribe-trump-bring-gold-222918518.html>.

<sup>20</sup> Andrew Ackerman, *Gold Prices Surge Under Trump, as the White House Gets More Golden*, Wash. Post (Aug. 16, 2025), <https://www.washingtonpost.com/business/2025/08/14/trump-gold-prices-surge-oval-office-decorations/>.

<sup>21</sup> YouTube, *supra* nt. 18.

<sup>22</sup> *Id.*

<sup>23</sup> Exec. Ord. 14329, 90 FR 38701 (August 11, 2025).

<sup>24</sup> *Id.*; Aditi Shah, *Indian textiles, jewellery slapped with 50% Trump tariff; pharma, phones exempt*, Reuters, (August 27, 2025),

<https://www.reuters.com/world/india/indian-textiles-jewellery-slapped-with-50-trump-tariff-pharma-phones-exempt-2025-08-08/>.

<sup>25</sup> Montesquieu, Spirit of the Laws, Bk.5, Ch. 17, pp. 67 (Cambridge Texts in the History of Policy Thought, Ed.) (2011).

gratuities” statute. This statute provides that no person may “directly or indirectly give[], offer[], or promise[] anything of value to a public official . . . for or because of any official act performed or to be performed by such public official.”<sup>26</sup>

In enacting Section 201(c), Congress recognized that provision and acceptance of such gratuities created both “the appearance of evil and the capacity of serving as a cover for evil.”<sup>27</sup> The purpose of the law is thus to both prevent “situations in which a government agent's judgment concerning his official duties may be clouded by the receipt of an item of value”<sup>28</sup> and to avoid “the evil of allowing citizens with money to buy better public service than those without money.”<sup>29</sup>

The President “occupies a position of public trust with official federal responsibilities,” and is a “public official” for purposes of the section. The Department of Justice has advised as such for over 50 years,<sup>30</sup> and the Supreme Court has implicitly accepted the position in several cases including their opinion in *Trump v. United States*, issued just last year.<sup>31</sup>

An illegal gratuity is any “thing of value” that is given “for or because of” an “official act.”<sup>32</sup> For purposes of the statute, an “official act” includes any “any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official's official capacity, or in such official's place of trust or profit.”<sup>33</sup>

There is no dollar threshold for the “thing of value”<sup>34</sup> and, unlike the federal bribery statute, the illegal gratuity statute does not require the item be given in exchange for the official act. Rather, as the late Justice Antonin Scalia said in *United States v. Sun-Diamond Growers of California*:

[f]or bribery there must be a quid pro quo—a specific intent to give or receive something of value in exchange for an official act. An illegal gratuity, on the other hand, may constitute merely a reward for some future act that the public official will take (and may already have determined to take), or for a past act that he has already taken.<sup>35</sup>

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<sup>26</sup> *Id.* at § 201(c)(1)(A).

<sup>27</sup> H. Rpt. 748, 87<sup>th</sup> Cong., 1<sup>st</sup> Session (July 20, 1961).

<sup>28</sup> *United States v. Gorman*, 807 F.2d 1299, 1305 (6<sup>th</sup> Cir. 1986); *United States v. Evans*, 572 F.2d 455, 480 (5<sup>th</sup> Cir. 1978) (“Even if corruption is not intended by either the donor or the donee, there is still a tendency in such a situation to provide conscious or unconscious preferential treatment of the donor by the donee, or the inefficient management of public affairs. These statutes, like the predecessor legislation, are a congressional effort to eliminate the temptation inherent in such a situation”).

<sup>29</sup> *United States v. Biaggi*, 674 F. Supp. 86, 89 (E.D.N.Y. 1987), *aff'd*, 853 F.2d 89 (2<sup>d</sup> Cir. 1988).

<sup>30</sup> *Dixon v. U.S.*, 465 U.S. 482, 496 (1984).

<sup>31</sup> *See, e.g., Trump v. United States*, 603 U.S. 593, 632 n. 3 (2024); *United States v. Sun-Diamond Growers of California*, 526 U.S. 398, 406 (1999) (explaining that 18 U.S.C. § 201(c) cannot be construed to cover “token gifts to the President based on his official position *and not linked* to any identifiable act”) (emphasis added).

<sup>32</sup> 18 U.S.C. § 201(c)(1)(A).

<sup>33</sup> 18 U.S.C. § 201(a)(3).

<sup>34</sup> *See, e.g., United States v. McDade*, 827 F. Supp. 1153, 1173-1174 (E.D. Pa. 1993), *aff'd in part, appeal dismissed in part*, 28 F.3d 283 (3<sup>d</sup> Cir. 1994) (denying the view that “‘value’ means ‘substantial value’” and holding that items such as a “golf umbrella” “are valuable enough . . . to be prosecuted under the gratuities statute.”).

<sup>35</sup> *Sun-Diamond*, 526 U.S. at 404-405; *Snyder v. United States*, 603 U.S. 1, 11 (2024)



A violation of 18 U.S.C. § 201(c)(1)(A) thus occurs so long as there is a “a link between a thing of value conferred upon a public official and a specific ‘official act’ for or because of which it was given.”<sup>36</sup> Or, in other words, “an official commits the illegal gratuity offense by accepting money as a *thank-you* for past [or future] help . . . without a *quid pro quo*.”<sup>37</sup> A payment can violate 18 U.S.C. § 201(c)(1)(A) even if the public official has already taken an official action or “already committed to take” an official action.<sup>38</sup>

A violation does not occur, however, simply because a gift is given because of an official’s *position*, rather than any official action. Thus, e.g., “token gifts to the President based on his official position and not linked to any identifiable act, such as the replica jerseys given by championship sports teams each year during ceremonial White House visits” are not covered by the law.<sup>39</sup>

### III. Request for Investigation

The illegal gratuities statute, 18 U.S.C. 201(c)(1), prohibits the President from personally accepting, and from any person giving, “thank you” gifts that are “for or because” of an official act.<sup>40</sup> There is no need for an illegal agreement, proof of a *quid pro quo*, or corrupt intent.<sup>41</sup> In enacting 18 U.S.C. 201(c)(1), Congress appeared concerned that allowing public officials, like the President, to accept gifts and rewards for or because of official actions could result in both “self-enriching actions”<sup>42</sup> by public officials and favoritism for those who were rich enough to curry favor with the government through expensive gifts. For the reasons set forth below, the circumstances surrounding Apple’s gift of the gold-and-glass display strongly suggest that it was not a mere token of generosity, but rather a gratuity given “for or because” the President’s commitment to not levy tariffs against Apple’s India imports.

First, Apple has economic motives for ensuring that tariffs are not issued against it and limits on what it can do to avoid such tariffs. Most of Apple’s manufacturing occurs overseas, and moving those operations stateside would impose immense costs on the organization. Although Apple has agreed to invest \$600 billion in the United States, Tim Cook has said several times that it cannot make the iPhone in America.<sup>43</sup> As Peter Cohan, a professor who has written several case studies on Apple, said shortly after Apple’s White House meeting “CEOs are realizing that they do have

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<sup>36</sup> *Sun-Diamond*, 526 U.S. at 414.

<sup>37</sup> *United States v. Peleti*, 576 F.3d 377, 384 (7th Cir. 2009); *see also* Department of Justice, Criminal Resource Manual CRM 2041 (“[I]f money was given after the fact, as “thanks” for an act but not in exchange for it, or if it was given with a nonspecific intent to “curry favor” with the public official to whom it was given -then it is a gratuity”), <https://www.justice.gov/archives/jm/criminal-resource-manual-2041-bribery-public-officials>.

<sup>38</sup> *United States v. Hoffmann*, 556 F.3d 871, 877 (8th Cir. 2009) (citing *United States v. Patel*, 32 F.3d 340, 344-345 (8th Cir. 1994).

<sup>39</sup> *Sun-Diamond*, 526 U.S. at 406-407.

<sup>40</sup> 18 U.S.C. §§ 201(c)(1)(A), (B).

<sup>41</sup> *Sun-Diamond*, 526 U.S., at 404-405; *see also United States v. Brewster*, 506 F.2d 62, 72 (D.C. Cir. 1974) (“the official act for which the gratuity is given might have been done without the gratuity, although the gratuity was produced because of the official act”).

<sup>42</sup> *Sun-Diamond*, 526 U.S. at 409.

<sup>43</sup> Kif Leswing, *Here’s how much a ‘Made in the USA’ iPhone would cost*, CNBC (May 23, 2025), <https://www.cnbc.com/2025/04/11/heres-how-much-a-made-in-the-usa-iphone-would-cost.html>.

to do something, and what they've discovered is that if they give the president something to brag about without destroying their company, that the problem might go away for a certain amount of time."<sup>44</sup>

Second, the timing of the gift suggests that it was given because of the President's exemption of Apple from the India tariff. The gift was given during an announcement at the White House concerning Apple's investments in America. It occurred on the same day that the President provided favorable treatment to Apple, excluding it from hefty tariffs that could have cost Apple millions of dollars. The meeting itself highlighted the President's "made-in-America" message and punctuated his stick-and-carrot approach by emphasizing that "for companies like Apple . . . if you're building in the United States or have committed to build, without question, committed to build in the United States, there will be no [tariffs]." Within this background, Apple CEO Tim Cook's gift, his lauding statement of congratulations to the President, and his effusive thank you all appear directly tied to the decision to the favorable treatment provided to Apple.

Third, the gold-and-glass statute was no mere keepsake, token, tchotchke, or "presentation item[]" with little intrinsic value."<sup>45</sup> Rather, as Tim Cook explained, the gold base is made of 24K gold—a favorite of the President<sup>46</sup>—and it is reported that it could be worth upwards of a million dollars. The glass was emblazoned with the President's name and "Apple American Manufacturing Program"—a program established in apparent response to the President's overt threats to levy tariffs against Apple if it did not move manufacturing to the United States. The gift is not only expensive, but it appears to have been tailored in a way to influence the President.

Fourth, the act of giving the President a gift during the course of ongoing negotiations over the imposition of heavy tariffs is highly abnormal—as would be expected given the "intricate web of regulations, both administrative and criminal, governing the acceptance of gifts and other self-enriching actions by public officials"<sup>47</sup>—and there appear to be no alternative reasons why the gift would have been given. President Trump does not appear to have a friendship with Tim Cook that would warrant the gift. Nor was the event one where gifts such as the one given are normally provided by outside parties to the President.<sup>48</sup> The lack of any alternative motive

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<sup>44</sup> Kif Leswing, *How Tim Cook convinced Trump to drop made-in-USA iPhone — for now*, CNBC (August 9, 2025) <https://www.cnbc.com/2025/08/07/apples-tim-cook-convicted-trump-to-drop-made-in-usa-iphone-for-now.html>.

<sup>45</sup> See 5 C.F.R. § 2635.203(b)(3). The U.S. Office of Government Ethics (OGE), the supervising ethics office for the Federal executive branch, has provided that executive branch employees like the President may accept "[g]reeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended primarily for presentation." Id. However, OGE has made clear that "Items such as watches, artwork, *items containing precious metals* or gemstones, fine crystal, or that otherwise have significant independent value would not qualify for this exclusion, even if they were inscribed or otherwise adorned with personalized information (such as the name of the donor, the date of an event, or the name of the recipient)." *Standards of Ethical Conduct for Employees of the Executive Branch; Amendment to the Standards Governing Solicitation and Acceptance of Gifts From Outside Sources*, 80 FR 74004, 74005 (Nov. 27, 2015) (proposed rule).

<sup>46</sup> Kinsey Crowley, *Tim Cook Appeals to Trump's Love of Gold with a 24-Karat Base for Apple Plaque*, USA Today (Aug. 7, 2025), <https://www.usatoday.com/story/news/politics/2025/08/07/tim-cook-trump-gift/85555805007/>.

<sup>47</sup> *Sun-Diamond*, 526 U.S. at 409.

<sup>48</sup> Even if this was otherwise true, it is axiomatic that "widespread violation of the law by others can furnish no excuse for a particular defendant ignoring the law since otherwise the law would be considered repealed by failure or inability of the government to enforce it in a large number of cases. It cannot be said that a public official who has accepted kickbacks from contractors doing business with the state or government can claim that this is a way of life

suggests that the gift was given to the President because of the President's decision to not impose tariffs on Apple.

Finally, it seems clear that this was a gift intended for President Trump in his personal capacity and not a gift to the government. Although gifts can be given to the government, as opposed to any specific employee, there are specific steps that must occur for an employee to accept the gift on behalf of the government, and ownership of the item is vested in the government alone. For example, under the Foreign Gifts and Decorations Act the President may accept on behalf of the United States certain gifts from foreign nations.<sup>49</sup> Those gifts become the property of the United States, not the President.<sup>50</sup> In addition the White House is permitted to accept certain "furniture and furnishing for use in the Executive Residence at the White House."<sup>51</sup> For example, "furnishing[s]" that are intended for the White House are the property of the White House, and cannot be kept personally by the President.<sup>52</sup> Finally, the President can direct gifts to be given to the Archivist of the United States, who can "when the Archivist considers it to be in the public interest" accept "for deposit" "historical materials of a President" for inclusion in a "presidential archive depository" which will be made part of the President's Library.<sup>53</sup>

The gold-and-glass statue does not, however, appear to have been intended as a gift to the government as opposed to the President. First, the gift is not from a Foreign Government, it is not a "furniture or furnishing," that would be used within the White House, and there was no suggestion that the gift was being deposited with the Archivist as part of the presidential archive depository. Tim Cook expressly stated that it was "engraved for President Trump" and that a former Marine Corps corporal "designed it for you" (referring to President Trump).<sup>54</sup> At no point during the press conference did Tim Cook state that the gift was to the government or that it was intended to be accepted by the Archivist of the United States on behalf of the President's future library. The circumstances make it clear that the gift was intended for the benefit of the President personally, as opposed to for the benefit of the government.

Taken together, these factors collectively support a reasonable inference that the gift was no mere "token gift[] to the President based on his official position and not linked to any identifiable act, such as the replica jerseys given by championship sports teams each year during ceremonial White House visits."<sup>55</sup> Rather, the facts point towards the conclusion that the gift could be an illegal gratuity, given to the President "for or because of" the President's official act in exempting Apple from the India tariffs. For that reason, DDF asks that the Department of Justice assess whether the gold-and-glass statute given by Apple may have violated 18 U.S.C. § 201(c)(1)(A). To the extent that the investigation reveals that the President's own conduct may be

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in the United States today and thus have a jury acquit him." *United States v. Standefer*, 452 F. Supp. 1178, 1188 (W.D. Pa. 1978) (holding that claims of widespread violation of illegal gratuities law was no defense).

<sup>49</sup> 5 U.S.C. § 7342(c)(2).

<sup>50</sup> *Id.* at § 7342(e)(1).

<sup>51</sup> 3 U.S.C. § 110.

<sup>52</sup> George Lardner Jr., *Clinton's Shipped Furniture Year Ago, White House Usher Doubted Ownership*, Wash. Post (Feb. 9, 2001),

<https://www.washingtonpost.com/archive/politics/2001/02/10/clintons-shipped-furniture-year-ago/d635c6a0-6458-4e3a-bd27-a08cbb226f61/>.

<sup>53</sup> 44 U.S.C. §§ 2111(a), 2112(b).

<sup>54</sup> YouTube, *supra* nt. 18.

<sup>55</sup> *Sun-Diamond*, 526 U.S. at 406-407.



at issue, the Attorney General should consider whether it would be appropriate to appoint a Special Counsel to investigate this matter pursuant to 28 C.F.R. part 600.

#### **IV. Conclusion**

The President is a public official, subject to rules concerning his conduct like any other public servant.<sup>56</sup> Members of the public, such as Apple, are prohibited from giving illegal gratuities to the President as a reward for a past, present, or future official act. Section 201(c)(1)(A) is in place to prevent "inappropriate influence on decisions that the government actually makes"<sup>57</sup>, to protect members of the public from untoward coercion, and ensure all citizens have an even playing field. For this reason, it is important to determine whether Apple engaged in activity that might have constituted an illegal gratuity, and if appropriate, to appoint a Special Counsel to investigate the matter. We thank you for your consideration of this matter.

Sincerely,

/s/

Norman L. Eisen  
Executive Chair and Founder  
Democracy Defenders Fund

/s/

Virginia Canter  
Chief Counsel and Director for Ethics and Anticorruption  
Democracy Defenders Fund

/s/

Christopher Swartz  
Senior Ethics Counsel  
Democracy Defenders Fund

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<sup>56</sup> See, e.g., 18 U.S.C. § 201(b), (c)(1)(B); 5 U.S.C. 7353(a).

<sup>57</sup> *United States v. Ring*, 628 F. Supp. 2d 195, 205 (D.D.C. 2009).