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Dear Acting Inspector General Blier and Acting Counsel for the Office of Professional Responsibility:

We write as former ethics counsels for Presidents George W. Bush, Barack Obama, and Bill Clinton. We previously requested an investigation into possible prosecutorial abuses and ethics violations by Lindsey Halligan, the newly-appointed interim U.S. Attorney for the Eastern District of Virginia, in connection with her having brought charges against former Federal Bureau of Investigation Director James Comey.¹ We now supplement that request with respect to the charges brought by Ms. Halligan against New York Attorney General Letitia James.²

If, as it appears,³ Ms. Halligan pursued these indictments to fulfill President Donald J. Trump's longstanding personal vendetta against Mr. Comey and Ms. James, we are facing a turning point in our democracy and some of the most egregious examples of vindictive and meritless

¹ Letter to Sen. Chuck Grassley, Sen. Dick Durbin, Rep. Jim Jordan, and Rep. Jamie Raskin from Norman Eisen, Richard Painter, and Virginia Canter, Sept. 26, 2025, https://fb1cd5ab-5a51-475c-87d1-10904a61146d.usrfiles.com/ugd/fb1cd5_e6234e4a9b5244e8bd59ab3af293ca51.pdf.

² United States v. Comey, 1:25-CR-272 (E.D.Va. (Sept. 25, 2025)); United States v. James, 2:25-CR-122 (E.D. Va. Oct. 9, 2025).

³ We note that the Ranking Member Jamie Raskin of the House Judiciary Committee has opened an investigation into the “ouster” of Mr. Siebert prior to the appointment of Ms. Halligan. See: Ranking Member Raskin, Letter to Attorney General Pamela Bondi, Sept. 25, 2025, <https://democrats-judiciary.house.gov/sites/evo-subsites/democrats-judiciary.house.gov/files/evo-media-document/2025-09-25.raskin-to-bondi-doj-re-siebert-edva.pdf>.

prosecution that our nation has ever seen.⁴ The pattern is unmistakable and presents an unprecedented crisis for the rule of law that must be urgently addressed to prevent this epidemic of injustice from spreading further. Indeed, as we write, another US Attorney's office is said to be reconsidering charges against a third Trump adversary, former National Security Advisor John Bolton, after having “previously pushed back against Justice Department political leadership”.⁵ In the United States, a president should never order prosecutions of his enemies. That happens in Putin’s Russia, and it has happened in other dictatorships, but not here—until now. Also, prosecutors should never be fired for refusing to bring charges they conclude are unfounded, even if the president orders them to do so. Yet that appears to be just what President Trump has done in order to charge Mr. Comey and Ms. James.

President Trump sought to fire a prosecutor who refused to proceed against his political enemies after the same prosecutor apparently concluded criminal charges were unmerited.⁶ And President Trump then installed a “handpicked” replacement in the federal prosecutor’s office in Virginia who immediately sought an indictment of Mr. Comey followed by Ms. James—despite reports that prosecutors viewed the cases to be unfounded.⁷

If the Trump administration can do this, then no American is safe from political prosecution.

We begin with the Comey indictment. While we are still awaiting particulars, initial reports suggested the false statement and obstruction charges brought against Mr. Comey appeared to be based on old claims that Mr. Comey lied to Congress.⁸ In May 2017, Mr. Comey testified to the Senate Judiciary Committee that he did not authorize anyone at the Federal Bureau of Investigations (FBI) to be an anonymous source for news reports about the Trump or Clinton investigations, and in September 2020 he testified that was still true.⁹ The contrived case that Mr. Comey lied in this testimony at first appeared to be based on a misunderstanding of FBI Deputy Director Andrew McCabe’s statements about what he and Mr. Comey discussed concerning a

⁴ We are aware of Nixon's misuse of the Justice Department and other federal agencies, but this is far worse. Norman Eisen and Andrew Warren, *Trump's message to Bondi is the gravest threat to democracy of his second term*, MSNBC, Sept. 24, 2025, <https://www.msnbc.com/msnbc/amp/rcna232991>.

⁵ Katelyn Polantz, *Federal prosecutors meeting this weekend to finalize Bolton indictment*, CNN, Oct. 11, 2025, https://www.cnn.com/2025/10/11/politics/john-bolton-doj-indictment-meeting?cid=ios_app.

⁶ Dan Mangan and Kevin Breuninger, *Former FBI Director Comey expected to be indicted soon in Virginia federal court*: MSNBC, CNBC, Sept. 24, 2025, <https://www.cnn.com/2025/09/24/james-comey-fbi-indictment-trump-congress.html>.

⁷ Katherine Faulders, et al., *Newly appointed US attorney will attempt to charge James Comey despite prosecutors finding no probable cause*: Sources, ABC News, Sept. 24, 2025, <https://abcnews.go.com/Politics/newly-appointed-us-attorney-attempt-charge-james-comey/story?id=125906268>;

Pierre Thomas, et al., *Pam Bondi, DOJ officials caught off guard by Tish James indictment*: Sources, ABC News, Oct. 10, 2025, <https://abcnews.go.com/US/pam-bondi-doj-officials-caught-off-guard-tish/story?id=126401855>.

⁸ Benjamin Wittes and Anna Bower, *The Situation: Choose Your Own Adventure: Lindsey Halligan Edition*, Lawfare, Sept. 24, 2025, <https://www.lawfaremedia.org/article/the-situation--choose-your-own-adventure--lindsey-halligan-edition>.

⁹ *Id.*

leak. The 2018 Department of Justice's Inspector General report does not support the charge that Mr. Comey lied to Congress.¹⁰

Subsequent reporting offered reason to believe that the indictment stems from a separate incident. It is one involving disclosures made by Daniel Richman, who had been designated a DOJ special government employee.¹¹ It appears to represent a similarly unavailing basis for prosecution.¹² Many, if not all, of these allegations against Mr. Comey were reviewed by the Department of Justice (DOJ) during the first Trump Administration.¹³ The DOJ decided not to prosecute, probably because the evidence of his purported untruthfulness with Congress was so weak.

The retaliatory nature of the Comey indictment is evident from the 8-year crusade by President Trump against Mr. Comey over the FBI's investigation of Russian interference in the 2016 election.¹⁴ This led to President Trump's firing of Mr. Comey in 2017, and then President Trump's calls for his prosecution even before the September 2020 testimony came to be part of the indictment.¹⁵

President Trump has been putting direct pressure on prosecutors to go after his opponents, including recent attempts to fire the prior interim U.S. Attorney for the Eastern District of Virginia, Erik Siebert, related to not bringing prosecutions of President Trump's political opponents including Ms. James.¹⁶ Although President Trump insists he fired Mr. Siebert,¹⁷ reporting indicates that Mr. Siebert resigned.¹⁸

¹⁰ Office of the Inspector General ("DOJ OIG Report"), *A Report of Investigation of Certain Allegations Relating to Former FBI Deputy Director Andrew McCabe*, U.S. Department of Justice, Feb. 2018, at 11-13, 23-26, <https://www.oversight.gov/sites/default/files/documents/reports/2018-04/o20180413.pdf>.

¹¹ Devlin Barrett et al., *Grand Jury Indicts Longtime Trump Target, Former F.B.I. Director James Comey*, The New York Times, Sept. 26, 2025, <https://www.nytimes.com/2025/09/25/us/politics/james-comey-indicted.html>; Katherine Faulders et al., *Central witness undermines case against James Comey, prosecutors concluded: Sources*, ABC News, Oct. 8, 2025, <https://abcnews.go.com/US/central-witness-undermines-case-james-comey-prosecutors-concluded/story?id=126311648>.

¹² Wittes and Bower, Lawfare, Sept. 24, 2025.

¹³ DOJ OIG Report.

¹⁴ Michael S. Schmidt and Maggie Haberman, *Trump Wanted to Order Justice Dept. to Prosecute Comey and Clinton*, The New York Times, Nov. 20, 2021, <https://www.nytimes.com/2018/11/20/us/politics/president-trump-justice-department.html>; Devlin Barrett et al., The New York Times, Sept. 26, 2025.

¹⁵ *Id.*

¹⁶ Faulders, et al., ABC News, Sept. 24, 2025; Mangan et al., CNBC, Sept. 24, 2025.

¹⁷ Donald J. Trump, Truth Social, Sept. 20, 2025, 12:14 am., <https://truthsocial.com/@realDonaldTrump/115234681538876098>

¹⁸ Filip Timotija, *Trump refutes claim US attorney in Virginia resigned: 'He didn't quit, I fired him!'*, The Hill, Sept. 20, 2025, <https://thehill.com/homenews/administration/5513655-donald-trump-erik-siebert-resignation-claims/>.

President Trump replaced him with Ms. Halligan, one of his former personal attorneys who has no prosecutorial experience.¹⁹ As the new interim U.S. Attorney, she sought an indictment of Mr. Comey on false statements and obstruction charges just before the statute of limitations for bringing them expires.²⁰ Indeed, according to some reports, career prosecutors sent the new U.S. Attorney a detailed memo recommending against bringing charges against Mr. Comey, and that the investigation failed to establish probable cause to believe Mr. Comey committed a crime.²¹

As if all of that were not bad enough, the same pattern has now been repeated a second time in as many weeks with respect to another victim of President Trump's wrath. Ms. Halligan's prosecution of Letitia James on two counts, one each of “bank fraud” and a “false statement”, appears to be a further attempt to fulfill President Trump's personal vendetta against his political enemies. President Trump's animus against Ms. James stems from having successfully brought a years-long civil fraud case against the Trump Organization, which, following an eleven-week trial,²² included judgments against President Trump and two of his sons and imposed a court monitor with limits on their ability to conduct business in New York.²³ The Trumps were found to have materially misrepresented the value of certain Trump Organization properties in their financial statements so as to obtain favorable rates from banks and other lenders. The lower court decision on Trump's liability was upheld by an intermediate appellate court that also voided the fine.²⁴ Appeals are ongoing.

Like her indictment against Mr. Comey, Ms. Halligan's indictment of Ms. James seems flimsy. It appears that the absence of probable cause in the James case is also a factor that led to Mr. Siebert's departure.²⁵ In addition, the supervisory attorney in the U.S. attorney's office's criminal division reportedly declined to pursue a grand jury indictment against Ms. James for lack of probable cause, and is said to be preparing to be fired as a result.²⁶

The indictment is based on a “Second Home Rider” Ms. James signed in 2020 for property located in Norfolk, Virginia. The indictment asserts that the rider required her to “occupy and use the property as her second residence” and “prohibited its use as a timesharing or other shared ownership arrangement or agreement that requires her either to rent the property or give any

¹⁹ Faulders, et al., ABC News, Sept. 24, 2025.

²⁰ *Id.*

²¹ *Id.*

²² Taylor Robinson, *A Timeline of the Conflict Between Letitia James and Donald Trump*, New York Times, Oct. 9, 2025, <https://www.nytimes.com/2025/10/09/us/politics/letitia-james-trump-conflict-timeline.html>.

²³ People of the State of New York v. Donald J. Trump, et al., No. 452564/2022, 2024 WL 645163 (N.Y. Sup. Ct. 2024), <https://ag.ny.gov/sites/default/files/decisions/trump-decision.pdf>.

²⁴ People v. Trump, __ NY3d __, 2025 NY Slip Op. 04756, <https://law.justia.com/cases/new-york/appellate-division-first-department/2025/index-no-452564-22-appeal-no-2834-2835-2836-case-no-2023-04925-2024-01134-2024-01135.html>. That case is now on appeal to the New York Court of Appeals.

²⁵ Faulders et al., ABC News, Sept. 24, 2025.

²⁶ Carol Leonnig and Ken Dilanian, *Top Prosecutor is rejecting Trump pressure to charge New York AG*, MSNBC, Oct. 6, 2025, <https://www.msnbc.com/msnbc/news/top-prosecutor-trump-pressure-charge-new-york-ag-rcna235922>.

other person any control over or use of the property.”²⁷ As one expert has noted, “prosecutors don’t even bother to allege she ever entered into such an arrangement” for timesharing or shared ownership.²⁸ Instead, prosecutors claim she rented out the property and that she didn’t personally use it. That conduct, however, does not appear to be clearly prohibited by the “Second Home Rider.” A 2019 rewrite of that rider by Fannie Mae clarified that short-term rentals are allowed during the loan’s first year as long as the home is “*available* primarily as a residence for the Borrower’s personal use” (emphasis added).²⁹ And after one year of ownership, homeowners are permitted to rent out the second home more freely.³⁰ Moreover, *The New York Times* has reported that the house was occupied by Ms. James’ grandniece who testified to a grand jury that she did *not* pay rent. The New York Times’s reporting also indicates that Ms. James *did* occupy the house when she visited her grandniece several times a year for extended stays.³¹

Under Virginia Rules of Professional Conduct, a prosecutor is barred from filing or maintaining a charge that the prosecutor knows is not supported by probable cause.³² Probable cause is the minimum standard that an indictment must meet and the Justice Department’s own Principles of Federal Prosecution bar prosecutions where there is a failure to meet this minimal requirement.³³ Furthermore, the Principles provide that the prosecutor “should commence or recommend federal prosecution if he/she believes that the person’s conduct constitutes a federal offense, and that the admissible evidence will probably be sufficient to obtain and sustain a conviction.”³⁴

Also “no prosecution should be initiated against any person unless the attorney for the government believes that the admissible evidence is sufficient to obtain and sustain a guilty verdict by an unbiased trier of fact.”³⁵ In the Comey case, Justice Department lawyers who previously reviewed the evidence apparently thought it was very unlikely they would obtain a conviction and may have believed that the probable cause requirement was not met either.³⁶ The same appears to be true of the James case according to press reports.

Equally important, the DOJ Principles provide that in determining whether to commence or recommend prosecution or take other action against a person, the prosecutor may not be

²⁷ United States v. James, 2:25-CR-122 (E.D. Va. Oct. 9, 2025).

²⁸ Molly Roberts, *The Justice Department’s Dangerously Weak Case Against Letitia James*, Lawfare, Oct. 10, 2025, <https://www.lawfaremedia.org/article/the-justice-department-s-dangerously-weak-case-against-letitia-james>.

²⁹ Katy McLaughlin, *Second-Home Rider Rewrite*, Wall Street Journal, Apr. 18, 2018, <https://www.wsj.com/articles/second-home-rider-rewrite-11555599871>.

³⁰ *Id.*

³¹ Jonah E. Bromwich, et al., *In the Eye of a Political Storm, a Tiny Yellow House in Norfolk, Va.*, New York Times, Oct. 11, 2025, <https://www.nytimes.com/2025/10/11/us/politics/letitia-james-indictment-house.html>.

³² Virginia Rules of Professional Conduct (Virginia Bar Rules), Rule 3.8. It appears that under choice of law principles the ethics rules of the jurisdiction of the proceeding apply. Model Rules of Professional Conduct Rule 8.3; Virginia Bar Rules, Rule 8.3.

³³ U.S. Department of Justice, United States Justice Manual, 9-27.200 (Mar. 2024).

³⁴ *Id.* at 9-27.220.

³⁵ *Id.*, 9-27.220, Comment.

³⁶ Mangan and Breuninger, CNBC, Sept. 24, 2025.

influenced by “[t]he person’s...political association, activities, or beliefs” or “[t]he possible effect of the decision on the attorney’s own professional or personal circumstances.”³⁷ Also, federal prosecutors “may never make a decision regarding an investigation or prosecution...[to give an] advantage or disadvantage to any candidate or political party.”³⁸

Both the Comey and James matters are rife with procedural improprieties that are prejudicial to their right to a fair trial regardless of the substance of any charge. It is not proper to comment on what’s going on in a grand jury,³⁹ it’s not proper to impugn an uncharged person, and it’s certainly not appropriate for a president to say that a subject is “guilty as hell,” as President Trump did of Mr. Comey and Ms. James,⁴⁰ and then for the president to seek to fire a prosecutor who refuses to prosecute them and substitute a replacement who will.

Indeed, criminal cases against Mr. Comey and Ms. James could be a nightmare for any prosecutor on both vindictive and selective prosecution grounds and on the merits. The discovery that a judge will likely order here alone will be enormously compromising in a variety of ways. If federal prosecutors do not want to go down this road, they should spend their time, and the taxpayers’ money, prosecuting real criminals, not the President’s political enemies.

No American should have to go through the experience of being prosecuted under these circumstances, and the rest of us should not have to live in fear that it may also happen to us. We do not live in a dictatorship, at least not yet.

On this basis, we respectfully request that your Offices immediately undertake investigations into Ms. Halligan’s prosecution of Mr. Comey and Ms. James.

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

³⁷ U.S. Department of Justice, United States Justice Manual, 9-27.260 (Mar. 2024).

³⁸ *Id.*

³⁹ Donald J. Trump, Truth Social, Sept. 25, 2025, 7:24 pm., <https://truthsocial.com/@realDonaldTrump/posts/115267513846352215>.

⁴⁰ Donald J. Trump, Truth Social, Sept. 20, 2025, 6:44 pm., <https://truthsocial.com/@realDonaldTrump/posts/115239044548033727>.