

Congress of the United States
Washington, DC 20515

May 8, 2018

The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Mr. Horowitz:

We are writing to request that your office initiate an investigation of allegations of politicized hiring practices at the Department of Justice that are set forth in a letter sent to Attorney General Jeff Sessions on April 17, 2018, by Reps. Elijah Cummings, Lloyd Doggett, Joaquin Castro, and Don Beyer.¹ The Department has not provided a substantive response to date.

Over the past several weeks, more whistleblowers have come forward with information that corroborates the allegations detailed in that letter. Several of our offices have received information about additional cases in which the Department has delayed or withdrawn offers for immigration judges and Board of Immigration Appeals (BIA) positions.

Based on these whistleblower accounts, the Department may be improperly withholding or rescinding offers for these positions based on the perception that candidates hold political or ideological views that do not align with those of the Trump Administration. In multiple cases, the Department appears to have withdrawn offers of employment with explanations that suggest a pretext for improper political motives.

Senator Durbin asked James McHenry, the Director of the Executive Office for Immigration Review (EOIR), about these allegations during a hearing on April 18, 2018, before the Senate Judiciary Committee. In his testimony, Director McHenry denied ever discussing the political or ideological affiliation of a candidate for an immigration judge or BIA position with any other Administration official or being aware of any such discussions involving other Department officials. Director McHenry added, “[W]e would have no way of knowing a candidate’s ideological or political affiliation. It is not something that we request or that is part of the application process.”²

¹ Letter from Reps. Elijah E. Cummings, Lloyd Doggett, Joaquin Castro, and Donald S. Beyer Jr., to Attorney General Jeff Sessions, Department of Justice (Apr. 17, 2018) (online at cumplings.house.gov/sites/cummings.house.gov/files/Dems%20to%20DOJ%20re.%20EOIR%20Politicization.pdf).

² Subcommittee on Border Security and Immigration, Senate Committee on the Judiciary, *Hearing on Strengthening and Reforming America's Immigration Court System* (Apr. 18, 2018).

The information provided by the whistleblowers indicates that this testimony may be inaccurate: in at least some cases, inferences about an applicant's ideological or political affiliation could be gleaned from application materials, even if such information was not required.

The Department also may be attempting to improperly screen for political or ideological preferences by changing the qualification criteria for immigration judge positions. At the April 18 hearing, Judge A. Ashley Tabaddor, the President of the National Association of Immigration Judges, testified that EOIR has changed the qualification requirements for immigration judges to prioritize litigation experience over other relevant immigration law experience. According to Judge Tabaddor:

This has created even more skewed appointment practices that largely have favored individuals with law enforcement experience over individuals with more varied and diverse backgrounds, such as academics and United States Citizenship and Immigration Service attorneys, who are perceived as not sufficiently law enforcement oriented.³

We request that you conduct an independent investigation into these allegations of illegal hiring practices even as we continue to press for answers from the Department on this matter. Given your office's important investigation a decade ago into politicized hiring at the Department and the seriousness of these strikingly similar allegations, we request that you give this matter immediate attention. Thank you for your consideration.

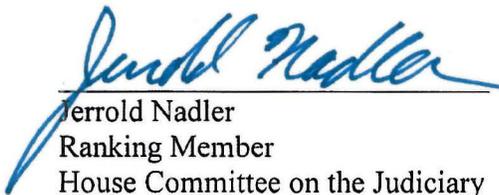
Sincerely,



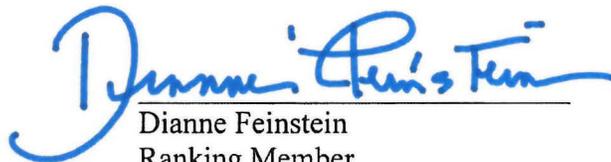
Elijah E. Cummings
Ranking Member
House Committee on Oversight
and Government Reform



Richard J. Durbin
Ranking Member
Subcommittee on Border Security
and Immigration,
Senate Committee on the Judiciary



Jerrold Nadler
Ranking Member
House Committee on the Judiciary



Dianne Feinstein
Ranking Member
Senate Committee on the Judiciary

³ *Id.*



Zoe Lofgren
Ranking Member
Subcommittee on Immigration
and Border Security,
House Committee on the Judiciary



Lloyd Doggett
Member of Congress



Joaquin Castro
Member of Congress



Donald S. Beyer Jr.
Member of Congress

cc: The Honorable Trey Gowdy, Chairman
House Committee on Oversight
and Government Reform

The Honorable Chuck Grassley, Chairman
Senate Committee on the Judiciary

The Honorable Bob Goodlatte, Chairman
House Committee on the Judiciary

The Honorable John Cornyn, Chairman
Subcommittee on Border Security and Immigration,
Senate Committee on the Judiciary

The Honorable Raúl Labrador, Chairman
Subcommittee on Immigration and Border Security,
House Committee on the Judiciary