

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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<http://oversight.house.gov>

March 30, 2020

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C., 20530

Dear Attorney General Barr:

The Subcommittee on Civil Rights and Civil Liberties is investigating the Religious Liberty Task Force at the Department of Justice (DOJ). Since the creation of the Task Force in 2018, the Administration has allowed employers to avoid covering birth control if they object due to “sincerely held religious beliefs”; granted a waiver to taxpayer-funded adoption agency Miracle Hill that allows it to discriminate based on religious beliefs and proposed expanding this waiver to all adoption agencies; and proposed a rule that would allow federal contractors to discriminate based on religious beliefs.¹

The Task Force was created to facilitate the implementation of DOJ’s memorandum of October 6, 2017, “Federal Law Protections for Religious Liberty.” That memorandum instructed all executive branch departments and agencies to broaden religious liberty protections “to the greatest extent practicable.” The memorandum indicated that agencies should appoint an officer to review all proposed rules for compliance with the memorandum, warning that DOJ would alert the Office of Management and Budget (OMB) of any rules or regulations that do not sufficiently comply.²

¹ *Trump Proposes a New Way Around Birth Control Mandate: Religious Exemptions and Title X*, New York Times (Nov. 17, 2018) (online at www.nytimes.com/2018/11/17/us/politics/trump-birth-control.html); *S.C. Group Can Reject Gays and Jews as Foster Parents, Trump Admin Says*, NBC News (Jan. 24, 2019) (online at www.nbcnews.com/feature/nbc-out/s-c-group-can-reject-gays-jews-foster-parents-trump-n962306); *Proposed HHS Rule Would Strip Obama-Era Protections for LGBTQ Individuals*, Washington Post (Nov. 1, 2019) (online at www.washingtonpost.com/health/2019/11/01/new-hhs-rule-would-strip-obama-era-protections-lgbtq-individuals/); *Trump Labor Agency Says Religious Contractor Free From Bias Law*, Bloomberg Law (Aug. 14, 2019) (online at news.bloomberglaw.com/daily-labor-report/trump-labor-agency-says-religious-contractors-free-from-bias-law).

² Memorandum from Attorney General Jeff Sessions to All Executive Departments and Agencies, *Federal Law Protections for Religious Liberty* (Oct. 6, 2017) (online at www.justice.gov/opa/press-release/file/1001891/download?utm_medium=email&utm_source=govdelivery).

The Task Force was established to ensure that “all Justice Department components are upholding” the principles outlined in the memorandum.³ The Task Force is intended to “facilitate interagency coordination” and “engage in outreach to the public, religious communities, and religious liberty organizations to obtain feedback on compliance” with the memorandum.⁴

DOJ designated the Task Force as a central clearinghouse. You recently described the Task Force as having regular meetings and working to “keep an eye out for cases or events around the country where states are misapplying the Establishment Clause in a way that discriminates against people of faith, or cases where states adopt laws that impinge upon the free exercise of religion.”⁵

Despite this centralized role, DOJ has released very little information about the Task Force, including who serves on the Task Force and what they do when they find a “case or event” worthy of action.

For these reasons, the Subcommittee requests that DOJ produce the following documents by Monday, April 13, 2020, for the time period of January 2017 to present:

1. Documents sufficient to show the current and former members of the Task Force and who currently serves as the Chair;
2. Documents sufficient to show how Task Force members were selected and what specific criteria were used;
3. Documents sufficient to show the expected time commitment of Task Force members and the ways in which membership on the Task Force impacts their official duties;
4. All communications with non-governmental organizations, entities, or individuals regarding the Task Force, as well as any projects they consulted on;
5. Documents sufficient to show what outreach the Task Force has done, where it did that outreach, and whether there was a specific target audience for the outreach;
6. All communications regarding the Task Force’s past and planned future outreach activities;
7. Documents sufficient to show what appropriations the Task Force is funded from, the additional costs for staffing and administrative support that the Task Force has incurred, and the total costs of the Task Force to date;

³ Department of Justice, *Remarks as Prepared for Delivery by Attorney General Jeff Sessions at the Department of Justice’s Religious Liberty Summit* (July 30, 2018) (online at www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-department-justice-s-religious-liberty-summit).

⁴ Memorandum from Attorney General Jeff Sessions to Heads of Department Components, *Religious Liberty Task Force* (July 30, 2018) (online at www.justice.gov/opa/speech/file/1083876/download).

⁵ Department of Justice, *Remarks as Prepared for Delivery by Attorney General William P. Barr at the Law School and the de Nicola Center for Ethics and Culture at the University of Notre Dame* (Oct. 11, 2019) (online at www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-remarks-law-school-and-de-nicola-center-ethics).

8. All communications regarding the development and implementation of policies, procedures, and guidelines for the Task Force;
9. All documents and communications regarding decisions, recommendations, issues, regulations, orders, directives, and/or actions the Task Force has made or influenced, including all communications with the Office of Management and Budget or other agencies regarding new regulations;
10. All documents regarding, relating to, or implementing the Religious Liberty Memorandum; and
11. All documents related to the Office of Legal Policy's review of Department rulemakings and agency action that involve religious liberty submitted to DOJ by OMB.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

An attachment to this letter provides additional instructions for responding to the Committee's request. If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Thank you for your attention to this matter.

Sincerely,



Jamie Raskin
Chairman
Subcommittee on Civil Rights and Civil Liberties

Enclosure

cc: The Honorable Chip Roy, Ranking Member
Subcommittee on Civil Rights and Civil Liberties

Responding to Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee on Oversight and Reform, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building. When documents are produced to the Committee on Financial Services, production sets shall be delivered to the Majority Staff in Room 2129 of the Rayburn House Office Building and the Minority Staff in Room 4340 of the O'Neill House Office Building. When documents are produced to the Permanent Select Committee on Intelligence, production sets shall be delivered to Majority and Minority Staff in Room HVC-304 of the Capital Visitor Center.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a

part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.