1. **Title: Update on TrumpCare**

**Message to Action Committee:** Stop TrumpCare in the Senate! If you send out anything this week, we ask that you ask members to take action on the Senate’s secret consideration of the health care legislation.

**Summary**

The Senate is trying to do what the House of Representatives did in May: jam through its TrumpCare bill in secrecy, without public hearings, without a Congressional Budget Office (CBO) score, and without knowing its full impact on American families. The Senate vote appears imminent before the end of June.

**Talking Points**

There has never been legislation of this magnitude passed without committee hearings and an opportunity for public review and input.

The House TrumpCare bill (American Health Care Act, or AHCA) would strip coverage from at least 23 million people and cut Medicaid by $800 billion, solely to give hundreds of billions of dollars in tax breaks to the wealthy and corporations. It would also undermine critical protections for people with pre-existing conditions, defund Planned Parenthood, and raise premiums for American families.

While **no one** outside a few Republican senators and staff has seen the Senate version, it is rumored the emerging Senate repeal bill closely follows the House version and would allow states to waive Essential Health Benefits (EHB) requirements and replace them with a narrower set of benefits. In waiver states, many insurers would drop coverage for more expensive conditions that were no longer required. The funding proposed will be woefully insufficient to cover individuals with pre-existing conditions, chronic conditions and more expensive conditions. EHB waivers would substantially weaken the ACA’s ban on annual and lifetime dollar limits on coverage, since this ban only applies to essential health benefits.

The cuts to Medicaid, while occurring over a longer period of time, will certainly decimate the program and will result in children, disabled, and elderly people losing coverage and needed benefits, including nursing home care, which is largely funded
ACTIONS:
Call Senator Patty Murray (253) 572-3636 and Senator Maria Cantwell (253) 572-2281.

Script: Please tell Senator ______ thank you for opposing the bill. I encourage her to speak out in the media or on the Senate floor against repeal of the Affordable Care Act. She needs to make it clear that she wants to protect people with pre-existing conditions, those on Medicaid, and everyone else who depends on the Affordable Care Act for health and wellbeing. This is extremely important to me and I will be watching closely for her public statements in opposition. Thank you for your time.

Action:
Call Senator Orrin Hatch, Senate Finance Committee (SFC) office (202) 224-4515 and several Republicans who have been on the fence about their vote for the bill. These include:

Lamar Alexander
455 Dirksen Senate Office Building, Washington, DC 20510i
(202) 224-4944

Shelly Capito
172 Russell Senate Office Building
Washington, DC 20510
Phone: 202-224-6472

Bill Cassidy
520 Hart Senate Office Building
Washington, D.C. 20510
Phone: (202) 224-5824

Susan Collins
413 Dirksen Senate Office Building
Washington, DC 20510
Main: (202)224-2523

Jeff Flake
Senate Russell Office Building 413
Washington, D.C. 20510
P: 202-224-4521

Dean Heller
324 Hart Senate Office Building
Washington, DC 20510
Phone: 202-224-6244

John McCain
218 Russell Senate Office Building
Washington, DC 20510
Main: (202) 224-2235

Rob Portman
448 Russell Senate Office Building
Washington, DC 20510
Phone: 202-224-3353
Script: I am calling Senator ______________ to urge them to oppose the healthcare bill, which will strip protections for people with pre-existing conditions and cause untold harm to children, disabled and elderly on Medicaid. In addition, I urge them to assure an open democratic process for consideration of such important legislation. Democracy thrives with discussion, cooperation, and compromise. As a consumer of healthcare services, I’m asking you to urge Senator Hatch to conduct open, public hearings on the Senate healthcare. Thank you for your time.
2. Russian interference with the election

Summary
Mueller is investigating Trump for obstruction of justice. Trump is reportedly considering firing special counsel Mueller. Deputy AG Rosenstein said he would not follow orders to fire Mueller unless they are lawful and appropriate. Senate and House committees are seeking the Comey memos on Trump meetings. Former federal prosecutor Bharara say he was uncomfortable with Trump trying to cultivate a relationship before he was fired by Trump.

Talking points
- Mueller is reportedly investigating whether Trump attempted to obstruct justice. Mueller is interviewing Director of National Intelligence Daniel Coats, NSA director Mike Rogers and Rogers departed deputy as early as this week. They will appear voluntarily, but unclear if they will assert executive privilege.
- He is examining Trump associates for possible contacts with Russian operatives and for suspicious financial activity related to them. Mueller is examining Kushner’s business dealings. Pence has hired a private lawyer to deal with Russia investigation issues.
- Trump associates report that he is considering firing special counsel Mueller. Some Trump allies are attacking Mueller, just a week after they praised his appointment. Attacks focus on campaign contributions by some of the staff he has hired. Deputy AG Ron Rosenstein stated that he is the only one who can fire Mueller and that he would not do so even if ordered unless the order was lawful and appropriate.
- The Senate Intelligence Committee and other Senate and House committees are actively seeking Comey’s memos on his meetings with Trump. The memos are in the possession of the FBI. It is possible, but unclear, if Comey friend Dan Richman (who Comey leaked the final memo to) still has memo copies, but the committees are talking with him.
- AG Sessions testified to the Senate Intelligence Committee June 13. He mostly avoided answering questions his interactions with Comey regarding Trump and his recusal. He stated that it would be inappropriate to answer questions touching on his private communications with Trump, but would not claim executive privilege.
- Former federal prosecutor for the Southern District of New York Preet Bharara stated that before his firing, Trump tried to establish a relationship with him. He felt uncomfortable about it and after discussion with staff, refused a Trump phone call. He was fired shortly afterward.
Where our members stand
Both senators called for a special prosecutor to be appointed by the Justice Department, and praised appointment of Robert Mueller to that post. Senator Cantwell released a statement after the Comey testimony that ended “We have to make sure that the White House is not trying to obstruct the investigation. No one is above the law, not even the president.” Congressman Heck has call for an independent commission for some months and signed discharge petition to move HR 356 (which would establish a commission) to the House floor.

What to do
- Continue to ask our senators to push for an independent commission with subpoena power. Thank Rep. Heck for doing so. Only an independent commission can conduct an independent investigation that can also share facts with the public.
- Encourage Rep. Heck to continue to push for an aggressive House Intelligence Committee investigation. Encourage our senators to continue to support aggressive Senate Intelligence Committee investigation. In the absence of an independent commission, the congressional investigations are the best way to get information on Russian involvement in the election and possible collusion out to the public. Members should not to let the appointment of a special prosecutor end or impede the congressional investigations.
- Urge moderate and concerned Republican senators to be vigilant regarding the congressional Russia investigations. They may include Burr, McCain, Graham, Collins, Murkowski, Sasse, Flake. While not all of these members are certain to support aggressive investigations, all have shown concern about the Russian connection at one time, or are seen as more moderate.
- Thank our members of Congress for continuing to stand up for democratic accountability and public transparency in this investigation.

PHONE CONTACT for our MoCs:

Senator Patty Murray (253) 572-3636 or (202) 224-2621
Senator Maria Cantwell (253) 572-2281 or (202) 224-3441
Rep. Denny Heck (360) 459-8514 or (202) 225-9740
3. Threat to the Federal Inspectors General

Summary

Every major federal agency and program has an inspector general (IG). These watchdogs are nonpartisan independent officials whose staff investigates cases of wasteful spending, criminal activity, employee misconduct and bad management. They also help protect whistle-blowers.

Talking Points:

- The list of good works by these IGs is impressive. Since the position of IG was created in 1978, shortly after Watergate, these investigators have ousted corrupt officials, protected government whistle-blowers, saved taxpayers billions, and kept Congress informed about what goes on behind closed doors in 73 federal agencies.
  - It was the CIA’s IG who helped expose how the Bush administration was illegally torturing detainees being held without due process.
  - The NSA’s IG investigated George W. Bush’s unconstitutional program of warrantless wiretapping.
  - Michael Horowitz, IG at the DOJ who simultaneously serves as Chair of the Council of Inspectors General on Integrity and Efficiency, recently told Congress that in fiscal 2015, the offices identified $26 billion in potential savings and recovered an additional $10 billion through criminal and civil cases. This represents a return of $14 for every dollar in the offices’ budgets!
  - In 2008, the Interior Department’s IG delivered reports to Congress detailing widespread corruption and conflicts of interest in the division overseeing the oil industry.
  - The special IG for Afghanistan reconstruction found weaknesses in planning, executing, and sustaining $488 million worth of American investments in Afghanistan’s extractive industries.
  - IGs at the Department of Homeland Security unearthed technical problems that resulted in cost overruns of 480 percent while increasing national security risks.

- In a startling break with tradition, Trump has rescinded the nominations of four inspectors put forward by Obama without offering replacements, threatened to fire those already in office, dragged his feet on filling vacancies, and left a dozen key departments without a permanent watchdog in the top job, including the CIA (making it easier for Trump to reinstate torture), the NSA, Defense, and Interior. Today nearly ¼ of IG offices have
either an acting director or no director at all. Without these watchdogs, it is much more likely that wrongdoing will go undetected.
- Of note, Obama left IG seats vacant for months and years, setting a dangerous precedent for Trump.
- At the Department of the Interior, the president is working to open up wide swaths of federal land to drilling and mining. It falls to the department’s IG to police these government leases, ensuring that the energy industry doesn’t profit unduly at taxpayer expense. This IG post has been vacant for 8 years!
- If the government were fully staffed with IGs, Trump himself would likely come under even greater scrutiny. Democrats in Congress have already asked the current IGs to look into the president’s threats against whistleblowers, as well as his overseas business holdings.
- Two U.S. Senate Democrats (McCaskill and Carper) asked IGs at 24 agencies to investigate whether officials are using apps for work that make it hard to trace communications. The apps encrypt messages and automatically delete them after they are read, which could run afoul of laws on preserving government records, which can be used to uncover and prosecute public corruption and collusion.

**Articles:**
- Office of the Inspector General at the DOJ
- NYT - Mr. Trump Goes After the Inspectors
- WSJ - Where Have All the Inspectors General Gone?
- New Republic - Trump’s War on Oversight
- Senate Democrats seek probes of administration's secret messaging
- The Hill - Inspector general reviewing HHS decision to halt ObamaCare ads
- Dem Senators Ask DOJ Inspector General To Probe Sessions’ Role In Comey Firing

**Our MoCs:**
- Sens. Murray & Warren Ask Inspector General to Investigate Trump Administration's Actions to Undermine the Health Care System

**To Do:**
- IGs play a vital independent role in cases of wasteful spending, criminal activity, employee misconduct and bad management throughout the government. We must insist that there is adequate funding for these important government watchdogs, particularly in light of the current administration’s track record.
• Call our MoCs and ask that they fight to include adequate funding for the offices of the Inspector General.

**PHONE CONTACT for our MoCs:**

Senator Patty Murray (253) 572-3636 or (202) 224-2621  
Senator Maria Cantwell (253) 572-2281 or (202) 224-3441  
Rep. Denny Heck (360) 459-8514 or (202) 225-9740

  o Script: My name is _____, and I live in _______. I’m calling to ask _________ to push for a budget that contains adequate funding for the offices of the Inspector General. They play a vital independent role in government, including investigations of wasteful spending and criminal activity. Data from 2015 indicated a return of $14 for every dollar in the offices’ budgets.
4. The US-Turkey Protest Crisis

Summary

On May 16, 2017, there was a violent confrontation in front of the Turkish Embassy in Washington D.C. between anti-Turkish protesters and supporters of Turkish President Erdogan. Video of the incident shows Erdogan’s bodyguards involved in assaulting some of the protesters. At least two of the Turkish bodyguards were detained by police, but were quickly released because they enjoyed diplomatic immunity as part of Erdogan’s official entourage.

Talking Points and Update:

On June 15, 2017, Washington D.C. Mayor Muriel E. Bowser and Police Chief Peter Newsham announced that 12 members of Turkish President Erdogan’s security detail have been criminally charged for their attack against protesters outside the ambassador’s residence in May. The Turkish security detail members charged are back in Turkey, and are not expected to be extradited to the US to face trial or to be made available for questioning. The new outstanding arrest warrants will make them subject to arrest if they return to the US.

D.C. police also announced the arrested two US residents for their actions during the altercation, at least one whom identified himself as a supporter of Erdogan. The charges against these persons include aggravated assault and assault with significant bodily injury. These US resident arrests are in addition to two others done on May 16, 2017.

To Do:

Call our MoCs to denounce the violence committed by Erdogan’s bodyguards, call upon the Turkish ambassador to the U.S. to denounce this violence, and to apologize for the violence. Further, ask our MoCs to sponsor legislation that would remove immunity for crimes committed by foreign nationals on US soil.

Senator Patty Murray (253) 572-3636 or (202) 224-2621
Senator Maria Cantwell (253) 572-2281 or (202) 224-3441
Rep. Denny Heck (360) 459-8514 or (202) 225-9740
5. Trump Ethical Issues, Part 1

Summary:

The number and scope of potential ethics problems swirling around Trump is breathtaking. The volume of ethical complaints against the Trump administration is so great that at one point the Office of Government Ethics actually asked the House Oversight Committee for assistance in handling them.

In brief, Trump’s potential ethics problems arise from his failure to properly isolate himself from his business interests, his failure to be forthcoming about his personal sources of income and current debts, his avoidance of federal nepotism laws, his exposure under the Emoluments Clause due to foreign government income, his use of his office for personal gain, his power to appoint/supervise the persons which regulate and oversee his businesses, his ignoring of the firewall between politics and law enforcement investigations, his efforts to publically delegitimize critical institutions such as the courts and intelligence agencies who disagree with him, his administration’s refusal to provide oversight information to Congress, his issuing of undated waivers to former lobbyists employed by the administration, his retention and support of subordinates with clear ethical problems, and his serial lying to the American people, among other issues. This list is focused on ethics issues, not potential or proven criminal exposure. A detailed discussion of these issues is presented in the supporting document (attached as a separate document).

Talking Points/What to do:

Contacting the White House in an effort to have them rein in their own ethical lapses will probably not be productive as long as the GOP still views and supports Trump as useful for their legislative agenda. What is currently missing is the will to hold the Executive Branch accountable for its ethical problems. However, individual citizens can take indirect action to bolster and support the existing federal ethical machinery and prevent similar issues in the future:

Work towards taking Democratic control of at least one house of Congress in 2018. This is not a solely partisan suggestion, directed towards
derailing Trump’s policy agenda. In the current unified federal government, the GOP apparently tolerates the ethical lapses of the Trump administration because they want to further their political agenda. If the Democrats can take control of either the House or the Senate, then the full investigatory and oversight power of Congress can be realized. If the GOP retains full control of Congress, not much will be done on ethical issues until we reach a crisis state where real damage may occur.

**Pressure Congress to fully investigate the Trump administration ethical lapses.** This can be done via the existing committees, or through the creation of special, non-partisan congressional commissions. What is critical is that the bodies conducting the investigations submit a public final report of their findings; we must know what is happening.

**Pressure Congress to use 26 USC 6103(f) to obtain Trump’s tax returns.** This statute exists for the purpose of obtaining vital information, and it may be impossible for Congress to determine if ethical violations have taken place without detailed knowledge of Trump’s income and debts.

**Pressure Congress to remove the conflict of interest and ethical exemptions that the president and vice president currently enjoy.** No official should be exempt from doing their sworn duty to serve the people, not even the president and vice president, and removing these exemptions will prevent many problems with this and future administrations. It is of critical importance that the head of the Executive Branch is held to a high ethical standard.

**Pressure Congress to enact new legislation to expand financial disclosures rules for federal officials, including requirements for divestiture or the use of blind trusts upon taking office.** We must ensure that current and future officeholders are not open to financial manipulation or improperly benefitting from their office.

**Advocate on behalf of the federal agencies which act as our ethical watchdogs and investigators,** such as the Office of Government Ethics, The Government Accountability Office, The United States Office of Special Counsel, the FBI, and others. Let Congress know that you support the work of these agencies, and that efforts to cut their funding or personnel, or to curtail their efforts, should be resisted.
Support the work of the press. Much of the information about the inner workings of the Trump administration has become public due to the dogged investigatory work of our free, robust press. When compared to the benefits derived, subscriptions are a good investment.

Here is the MoC Contact Information to advocate on any one or more of the suggestions above:

- Senator Patty Murray (253) 572-3636 or (202) 224-2621
- Senator Maria Cantwell (253) 572-2281 or (202) 224-3441
- Rep. Denny Heck (360) 459-8514 or (202) 225-9740
6. Trump Ethical Issues, Part 2

Summary

Article I, Section 9, Clause 8 of the US Constitution prohibits any federal official, including the president and vice president, from receiving money, pay, gifts, titles, offices, or any other emoluments from any foreign government without the consent of Congress; this prohibition is known as the Emoluments Clause. Note that the president and vice president are thought to be shielded from normal criminal indictment and prosecution while in office due to the Separation of Powers doctrine, so Emoluments Clause remedies against a sitting president can only be obtained via impeachment or civil action.

Upon taking office Trump decided to retain ownership of his businesses, which operate across the globe. There have been numerous complaints that foreign governments are intentionally and selectively doing business with Trump’s businesses, in addition to granting his businesses various commercial and regulatory advantages within their own countries, in an attempt to curry favor with the US president and advance their national agendas. Trump has not published his tax returns or detailed financial records, so it is difficult to see if he is actually receiving foreign government income.

Several civil lawsuits have been filed against Trump by business competitors and ethics watch-dog groups, contending that the selective and intentional funneling of foreign government business towards Trump’s personal businesses constitutes a violation of the Emoluments Clause, as the increased business activity is due to his holding office. The DOJ lawyers defending Trump assert that any profits that Trump realizes from such business activity is normal and proper, and that the parties suing do not have the legal standing (the right) to sue for an Emoluments Clause violation. These lawsuits are currently working their way through the federal court system.

For the purpose of the Emoluments Clause, state governments are considered to be foreign governments (they are “foreign” to the federal government). On June 12, 2017, a lawsuit was filed against Trump by the Attorneys General for the District of Columbia and the state of Maryland alleging that Trump is violating domestic emoluments by creating a situation in which states feel compelled to compete for Trump’s favor, perhaps by offering zoning exemptions, waivers or other benefits to help his businesses.
The theory here is that the selective easing of state regulations for the Trump business confers an indirect, but real, financial advantage to his businesses which will result in increased profits, and that this valuable financial advantage given to him by the states constitutes an Emoluments Clause violation. It is thought that because government entities are suing Trump, rather than private parties, that they might have greater legal standing in court.

**Update:**

On June 14, 2017, nearly 200 Democratic members of Congress filed a federal lawsuit accusing President Trump of violating the Constitution by profiting from business dealings with foreign governments. The lawsuit accuses Mr. Trump of illegally profiteering from his businesses in a variety of ways, including collecting payments from foreign diplomats who stay in his hotels and accepting trademark approvals from foreign governments for his company’s goods and services. What makes these profits potentially illegal is that they have not been approved by Congress, as required by the Constitution.

This newest Emoluments Clause lawsuit brought against Trump by members of Congress is unique in two important ways:

- The lawsuit contends that Trump’s ongoing, but hidden, business activities with foreign governments prevents Congress from performing its constitutional duty to pass judgement on the emoluments he receives, as mandated in Article I, Section 9, Clause 8 (the consent of Congress is required to receive emoluments). The need of Congress to fulfill a constitutional mandate is a powerful argument for the legal standing to sue.

- In order for Congress to determine if Trump has received any foreign emoluments, and to properly evaluate any foreign emoluments, it is necessary to fully examine Trump’s income, assets, and debt profile. For this reason, the plaintiffs have indicated they will seek Trump’s tax returns and financial information during the discovery process. This is different route to Trump’s tax returns than that provided by 26 USC 6103(f), which allows committees in Congress to directly obtain tax returns.
TO DO:

Thank Senator Patty Murray, Senator Maria Cantwell, and Rep. Denny Heck for agreeing to filing of this lawsuit. They are 3 of the nearly 200 plaintiffs.

Script: Thank you ________ for protecting our democratic institutions by filing the Emoluments Clause lawsuit against President Trump in the US District Court.

Trump Ethical Issues

Summary:
The number and scope of potential ethics problems swirling around Trump is breathtaking. The volume of ethical complaints against the Trump administration is so great that at one point the Office of Government Ethics actually asked the House Oversight Committee for assistance in handling them.

In brief, Trump’s potential ethics problems arise from his failure to properly isolate himself from his business interests, his failure to be forthcoming about his personal sources of income and current debts, his avoidance of federal nepotism laws, his exposure under the Emoluments Clause due to foreign government income, his use of his office for personal gain, his power to appoint/supervise the persons which regulate and oversee his businesses, his ignoring of the firewall between politics and law enforcement investigations, his efforts to publically delegitimize critical institutions such as the courts and intelligence agencies who disagree with him, his administration’s refusal to provide oversight information to Congress, his issuing of undated waivers to former lobbyists employed by the administration, his retention and support of subordinates with clear ethical problems, and his serial lying to the American people, among other issues. This list is focused on ethics issues, not potential or proven criminal exposure. A detailed discussion of these issues is presented in the supporting document.

Talking Points/What to do:
Contacting the White House in an effort to have them rein in their own ethical lapses will probably not be productive as long as the GOP still views and supports Trump as useful for their legislative agenda. What is currently missing is the will to hold the Executive Branch accountable for its ethical problems.

However, individual citizens can take indirect action to bolster and support the existing federal ethical machinery and prevent similar issues in the future:

• **Work towards taking Democratic control of at least one house of Congress in 2018.** This is not a solely partisan suggestion, directed towards derailing Trump’s policy agenda. In the current unified federal government the GOP apparently tolerates the ethical lapses of the Trump administration because they want to further their political agenda. If the Democrats can take control of either the House or the Senate, then the full investigatory and oversight power of Congress can be realized. If the GOP retains full control of Congress, not much will be done on ethical issues until we reach a crisis state where real damage may occur.
• **Pressure Congress to fully investigate the Trump administration ethical lapses.** This can be done via the existing committees, or through the creation of special, non-partisan congressional commissions. What is critical is that the bodies conducting the investigations submit a public final report of their findings; we must know what is happening.

• **Pressure Congress to use 26 USC 6103(f) to obtain Trump’s tax returns.** This statute exists for the purpose of obtaining vital information, and it may be impossible for Congress to determine if ethical violations have taken place without detailed knowledge of Trump’s income and debts.

• **Pressure Congress to remove the conflict of interest and ethical exemptions that the president and vice president currently enjoy.** No official should be exempt from doing their sworn duty to serve the people, not even the president and vice president, and removing these exemptions will prevent many problems with this and future administrations. It is of critical importance that the head of the Executive Branch is held to a high ethical standard.

• **Pressure Congress to enact new legislation to expand financial disclosures rules for federal officials, including requirements for divestiture or the use of blind trusts upon taking office.** We must ensure that current and future officeholders are not open to financial manipulation or improperly benefitting from their office.

• **Advocate on behalf of the federal agencies which act as our ethical watchdogs and investigators,** such as the Office of Government Ethics, The Government Accountability Office, The United States Office of Special Counsel, the FBI, and others. Let Congress know that you support the work of these agencies, and that efforts to cut their funding or personnel, or to curtail their efforts, should be resisted.

• **Support the work of the press.** Much of the information about the inner workings of the Trump administration has become public due to the dogged investigatory work of our free, robust press. When compared to the benefits derived, subscriptions are a good investment.

**MoC Contact Information:**

Representative Denny Heck:  
(202) 225-9740  
https://dennyheck.house.gov

Senator Maria Cantwell:  
(202) 224-3441  
https://www.cantwell.senate.gov/

Senator Patty Murray:  
(202) 224-2621  
http://www.murray.senate.gov/public/
Trump Ethical Issues
Detailed Discussion
June 12, 2017

Note: An important Executive Branch ethics resource is the Office of Government Ethics document [COMPILATION OF FEDERAL ETHICS LAWS](https://www.whitehouse.gov/omb/eop/oge/fedethics/index.html), 110 pages of provisions signed into law through the end of the 114th Congress.

**Federal employee ethical obligations, fiduciary duties, and conflicts of interest.**
The basic ethical obligations of federal public service is outlined in [5 CFR 2635.101](https://www.usa.gov/5-cfr-2635-101):

(a) Public service is a public trust. Each employee has a responsibility to the United States Government and its citizens to place loyalty to the Constitution, laws and ethical principles above private gain. To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each employee shall respect and adhere to the principles of ethical conduct set forth in this section, as well as the implementing standards contained in this part and in supplemental agency regulations.

(b) General principles. The following general principles apply to every employee and may form the basis for the standards contained in this part. Where a situation is not covered by the standards set forth in this part, employees shall apply the principles set forth in this section in determining whether their conduct is proper.

1. Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.
2. Employees shall not hold financial interests that conflict with the conscientious performance of duty.
3. Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.
4. An employee shall not, except as permitted by subpart B of this part, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.
5. Employees shall put forth honest effort in the performance of their duties.
6. Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.
7. Employees shall not use public office for private gain.
8. Employees shall act impartially and not give preferential treatment to any private organization or individual.
9. Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.
10. Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.
(11) Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

(12) Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those - such as Federal, State, or local taxes - that are imposed by law.

(13) Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

(14) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

In reading this statute it is clear that federal employees have a fiduciary duty: the legal obligation of one party to act in the best interest of another. As stated in 5 CFR 2635.101(b)(1), “Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.” Additional specific ethical obligations may be placed on federal employees by their individual departments and/or agencies, as circumstances warrant.

While performing their duties government officials and employees may experience conflicts of interest, which are conflicts between their private or personal interests and their official responsibilities or duties. Conflicts of interest are not particularly rare, and certainly do not imply wrongdoing on the part of the involved official or employee, for most conflicts of interest are completely innocent in nature. Conflicts of interest may arise naturally due to an individual employee’s previous or current actions, employers, occupations, associations, relationships, stated positions, personal economic interests, and the like.

However, conflicts of interest become problematic when they are not resolved in a manner which conforms to one’s fiduciary or ethical responsibilities. Conflict of interest resolutions may take many forms, depending on the circumstances, such as recusals from decision making or supervision, transfer of specific responsibilities or duties to others, divestment of investments and ownership interests, transfer of employees, among other steps. Corrective actions may be taken even if a conflict of interest does not legally exist, for avoiding even the appearance of a conflict of interest enhances public confidence that the public’s best interests are being protected; this is often seen with judges recusing themselves from specific court cases.
**Trump’s Executive Order on ethics.**
On January 28, 2017, Trump issued an Executive Order describing the ethical rules for all Executive Branch employees. It is common for new administrations to issue such orders. The ethics rules of previous administrations had barred lobbyists from taking jobs at agencies they had lobbied. Trump’s ethics rules scrapping the ban on lobbyists joining agencies they had recently lobbied, instead imposing restrictions on what matters and issues such officials can work on. Specifically it says they cannot “participate in any particular matter on which I lobbied ... or participate in the specific issue area in which that particular matter falls.”
Enforcement of Trump’s ethics rules will be at the discretion of the administration, and any ethical waivers given to former lobbyists now working in the administration are not subject to public disclosure. This last provision was later changed after a public confrontation with the Office of Government Ethics.

**Enforcement of ethical obligations.**
Within the Executive Branch, potential ethical lapses are investigated primarily through the FBI, White House Counsel’s Office, and various department Inspectors General. The Government Accountability Office, an independent arm of Congress that acts as a sort of internal government auditor or accountant, may also occasionally participate in ethics investigations involving public funds. Minor ethical lapses can usually be handled internally through reprimands/admonishments, divestitures, personnel transfers, or terminations/resignations. Prosecutions, if called for, are done through the Department of Justice and the courts.
Within the Executive Branch is the Office of Government Ethics (OGE), which performs an important advisory and vetting role for thousands of federal employees across the various executive agencies. The OGE focuses primarily on financial matters, obtaining detailed financial documents from Cabinet and other officers/employees to compare against ethics regulations. If there is a problem, OGE assists the employee in formulating a plan to meet federal ethical requirements. On numerous occasions, starting in the 2016 transition period, OGE has expressed serious concerns over Trump’s retention of his pre-existing business assets and interests.

The United States Office of Special Counsel (OSC) is also involved in executive branch ethics, including Hatch Act violations. The jurisdiction of the OSC extends to most executive branch employees, former employees, and applicants for employment, but does not extend in some instances to high-ranking political officials, or to employees of the Central Intelligence Agency, Defense Intelligence Agency, National Security Agency, and certain other intelligence agencies. The OSC describes its mission as:

> The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Our basic authorities come from four federal statutes: the Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniformed Services Employment & Reemployment Rights Act (USERRA). OSC’s primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing.

The Hatch Act of 1939 ([5 USC Subchapter III]) prohibits employees in the executive branch of the federal government, except the president, vice-president, and certain designated high-level
officials of that branch, from engaging in some forms of political activity. See the OSC document THE HATCH ACT. Permitted and Prohibited Activities for Most Federal Employees.

The president and vice president. It is important to note that the president and vice president are specifically exempt from some of the statutory and departmental ethics rules that apply to Cabinet members and other government employees, specifically the financial conflict-of-interest statute in 18 USC 208 (see 18 USC 202 for the exemption) and the ethical obligations in 5 CFR 2635.101 discussed above (see 5 CFR 2635.102 for the exemption). This is the basis for Trump’s assertion that a president may not have a financial conflict of interest. The president, vice-president, and certain designated high-level officials are also exempt from the Hatch Act provisions on political activities while in office.

It is also important to note that there is a serious debate among legal scholars as to the ability of the president and vice president to be criminally indicted and prosecuted while they hold office, as any such action would flow from Judicial Branch powers and would thus constitute a violation of the implied Separation of Powers doctrine. The general consensus is that the president and vice president can’t be criminally indicted or prosecuted while in office. This proscription prevents direct action by the DOJ against criminal ethics violations by the sitting president and vice president. However, both are subject to impeachment as described in the Constitution, which is more of a political action rather than a legal action. Once out of office, the president and vice president are again subject to criminal indictment and prosecution for their actions; Ford issued a blanket pardon to Nixon to prevent his prosecution for crimes committed while in office.

However, sitting presidents and vice presidents are subject to civil actions. After Clinton was impeached and acquitted, but still president, he was cited in 1999 for civil contempt for not telling the truth and had his law license suspended. Many presidents have faced civil actions while in office; Trump is currently facing Emoluments Clause civil actions.

Constitutional ethics. The US Constitution provides the framework for our federal government, describing its structure, composition, and operational mechanics. The Constitution details the duties, obligations, limitations, and responsibilities of the three branches of government, the interrelationship between the three branches of the federal government, the interrelationship between the federal government and the states, as well as individual citizen rights and responsibilities, among many other provisions. With the exception of treason (Article III, Section 3), there are no criminal acts defined within the Constitution.
There are at least three constitutional provisions/concepts important to the question of Trump Administration ethics.

- **Impeachment** ([Article II, Section 4, Article I, Sections 2 & 3](https://www.archives.gov/founders-docs/constitution-full)

  Article II, Section 4 of the US Constitution:
  
  *The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.*

  Impeachment is the constitutional process for removing the president, vice president, federal judges, and other federal officials from office. There have only been seven federal officials removed from office by impeachment and conviction, all of them judges. Two presidents have been impeached but not subsequently convicted, Johnson and Clinton, while Articles of Impeachment were being prepared by the House when Nixon resigned. Most agree that impeachment should only be used under the most extraordinary of circumstances, for it disrupts the normal mechanisms of government and, in the case of removing elected officials, may thwart the will of the people, at least as it was expressed at the time of the last election.

  Impeachable acts are defined in the Constitution as “treason, bribery, and other high crimes and misdemeanors.” Only treason is defined within the Constitution; there is no Constitutional definition of bribery, and the definition of “other high crimes and misdemeanors” is left to the interpretation of Congress. See the discussion of “high crimes and misdemeanors” below.

  **Impeachment is more of a political act than a legal act, with Congress setting most of the details and rules.** During an impeachment Congress roughly follows the familiar criminal process of indictment (the House votes Articles of Impeachment by majority vote) followed by a trial (by the Senate, with two-thirds required for conviction), but the procedures, presiding officer, rules of evidence, the taking of testimony, allotted time for arguments, and other mechanics may differ substantially from those seen within a federal court of law. Note that if the president has been impeached, Article I, Section 3 of the Constitution specifies that the Chief Justice shall be the presiding officer during the Senate trial (this is the only time the Constitution mentions the Chief Justice).

  If, after the trial in the Senate, two-thirds of the Senators agree that at least one of the impeachment charges is true, then the party being impeached is immediately and automatically removed from office. As is fitting for a political action, Congress can only remove a person from office by impeachment, not fine or jail them (the person can be barred from holding office). A person may be subject to separate criminal prosecution for their acts, but that is unrelated to impeachment.

  **If the political will does not exist in Congress to both impeach and convict a person, removal of that person from office will not take place.** While simply having Articles of Impeachment passed against an official by the House may be very damaging politically (think of both Johnson and Clinton), if they are not also convicted by the Senate then that official will retain their position and full constitutional authority. To impeach and convict any official takes a minimum of 218 votes in the House and 66 votes in the
Currently there is no political consensus in Congress for any impeachment proceedings.

- **“high crimes and misdemeanors”**

The Constitution does not define “high crimes and misdemeanors”, yet it uses this language to describe impeachable offenses. What exactly does the word “high” mean when used in this context, and how does it relate to ethics? In the 18th century English legal tradition, a high crime was one committed by a public official misusing the authority, power, or access of his/her office, or failing to properly perform their duties. Examples include misappropriating government funds, appointing unfit subordinates, not prosecuting cases, and bribery. Note that while some of these are clearly criminal acts, others are political or administrative in nature. During the Constitutional Convention, the Framers were reported to use terms such as loss of capacity, corruption, and maladministration in their discussions on impeachable offenses, finally settling on the words we have today. The Framers also rejected adding the phrase “against the state” to the end of Article II, Section 4, signifying that impeachment was not just for acts against the state, but also for acts against the people. In Federalist No. 65, Hamilton explained impeachment. He defined impeachable offenses as “those offences which proceed from the misconduct of public men, or in other words from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated political, as they relate chiefly to injuries done immediately to the society itself.” Hamilton’s description of “high crimes and misdemeanors”, encompassing both criminal acts and political or fiduciary misconduct, is the one generally accepted today.

The Constitution has thus left the definition of “high crime and misdemeanor” to Congress. **For all practical purposes, a “high crime and misdemeanor” is whatever Congress wishes it to be:** a statutory crime, a fiduciary or ethical violation, an unwelcomed political act, an administrative act or omission, offensive statements, or literally anything else Congress can agree on. If Congress has the collective political will and desire to impeach a federal official, they may do so for basically any reason, justified or not (Associate Justice Samuel Chase was impeached in 1805, but not convicted, with one charge being that he was an ill-tempered bully). The only real restraint on Congress’ impeachment power is the voter response to their actions.

- **The Emoluments Clause (Article I, Section 9, Clause 8 of the US Constitution).**

**Article I, Section 9, Clause 8** of the US Constitution:

> No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Article I, Section 9, Clause 8 of the US Constitution was put in place in an effort to guarantee republicanism within the US. At the time that the Constitution was written the majority of nations were ruled by autocrats, which often used titles, presents, and
payments to control and influence others. Things haven’t changed that much since the 1780s.
The Framers wished to limit the distribution of such titles, presents, and payments to Federal officers and employees as a way to prevent their ethical subversion. These were not unwarranted concerns, for under the Articles of Confederation foreign governments were known to have presented valuable gifts to US diplomats and officials. Additionally, other nations had experienced episodes where their officials had actually been on the payroll or receiving pensions from hostile foreign powers.
Foreign titles of nobility are absolutely prohibited by the first part of Article I, Section 9, Clause 8. “Honorific” titles from a foreign government may be accepted provided the recipient has no duties that must be performed for the foreign government that are connected to the title and the recipient obtains advance approval.
The Emoluments Clause, the last part of Article I, Section 9, Clause 8, prohibits all federal officials and employees from receiving profit (emoluments) from a foreign government.

**Emolument** definition:

*The profit arising from office or employment; that which is received as a compensation for services, or which is annexed to the possession of office as salary, fees, and perquisites; advantage, gain, public or private. Any perquisite, advantage, profit, or gain arising from the possession of an office.* (Black’s Law Dictionary)

The Department of Justice’s Office of Legal Counsel (OLC) has opined that the term "Office of Profit or Trust" includes all full-time Federal employees, thus including the president and vice president. It further concluded that the problem of divided loyalties can arise at any management level in the Government. OLC pointed out that Congress presumes that the Emoluments Clause applies to all Federal personnel because it enacted the Foreign Gifts and Decorations Act which applies to all Federal personnel. (See below for a FGDA description)
The Office of General Counsel within the Department of Defense offers a broad description of “Emoluments”:

“The profit arising from office or employment; that which is received as a compensation for services, or which is annexed to the possession of office as salary, fees, and perquisites; advantage, gain, public or private”, except as authorized by Congress. Thus, for example compensation in the form of honoraria, travel expenses, household goods shipments at employer’s expense, housing allowances, and gifts from a foreign state, except as authorized by Congress, are considered emoluments. As a result, most federal personnel, including retired military personnel, cannot accept outside compensated employment with, or receive gifts in excess of the minimal value from, a foreign government.

With the permission of Congress, US officials and employees may legally receive foreign government tangible gifts or expense compensation. The Foreign Gifts and Decorations Act (FGDA), 5 USC 7342, specifies what foreign government gifts may be accepted by an official, and constitutes congressional approval if the guidelines are followed.
In general, the FGDA states that federal officials and employees may not accept personal tangible gifts or expense compensation valued at more than $390. Tangible gifts of greater value may be accepted on behalf of the US government; these gifts are surrendered to the government for final disposition. US military personnel, with the permission of their agency, may accept and wear a foreign “decoration”: an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government. All foreign government gifts and decorations are to be reported to the government.

Trump’s potential violation of the Emoluments Clause, due to his receiving foreign government payments for his ongoing business dealings while holding office, is unresolved but important. Trump has retained personal ownership of many of his business enterprises, supposedly transferring operational control to his sons. His businesses are privately held, and not required to file public disclosures and reports like public corporations. As far as it is known, all of Trump’s businesses operate legally, with many focused on the hotel and leisure industries, both in the US and internationally. Trump has chosen not to make his personal or business taxes public, making it impossible to track income from either foreign or domestic sources (and to whom he owes money). Trump originally pledged to track his income from foreign governments and donate subsequent profits to the US Treasury, but in May 2017 decided this was too difficult. In essence, Trump’s foreign business dealings and income are black holes, and the extent that he receives money from foreign governments is unknown.

The basic arguments that Trump is not violating the Emoluments Clause:

The primary theory presented is that Trump may be receiving income, and thus direct profits, from foreign governments, but these are simply appropriate payments at the normal rate for services rendered during the normal course of business. Reference is often made to early presidents, such as George Washington, who were also involved in international trade while in office.

The DOJ lawyers defending Trump against various civil suits on this issue (yes, the DOJ is defending him) also have asserted that the organizations and individuals pursuing the case against Trump have no standing (right to sue) to enforce the Constitution's limits on what the founders referred to as “foreign emoluments.”

The basic arguments that Trump is violating the Emoluments Clause:

The arguments usually fall into two broad categories. Note that the focus here is on the Emoluments Clause violations only, not improper business practices or overt criminal acts or criminal intent.

1) Foreign governments will be drawn towards doing business with Trump, rather than his competitors, because they believe that doing so will curry favor with the sitting president, and thus further their national agendas. They would do so because Trump would be aware of which foreign governments were spending money at his businesses because he retains ownership and operational knowledge of these enterprises. Trump’s artificially inflated profits would
therefore constitute a form of direct payment from a foreign government due to his holding office.

2) Trump businesses overseas would gain an unfair competitive advantage, and thus inflated profits, from foreign governments easing restrictions, showing favor, or providing unique opportunities towards businesses owned by the President within their country, again in an effort to curry favor with him. The artificial expansion of Trump’s foreign business opportunities would inflate his profits, and would therefore constitute an indirect form of profit from a foreign government due to his holding office.

Under these theories, foreign governments are using Trump’s businesses to funnel money directly to him in an effort to gain favor for their national goals, taking advantage of Trump’s well-known “transactional” world view. Trump would be passively benefitting financially from simply holding his office while simultaneously retaining his business ownership, even if he took no active steps to profit directly from his office (active steps would be criminal acts, not constitutional non-compliance). If he had properly divested his business interests upon taking office, as requested by the Office of Government Ethics and done by other presidents, neither of these situations would exist.

The DOJ, appropriately, is the department that decides if an Emoluments Clause violation has taken place and should be criminally prosecuted. But as described earlier, a sitting president and vice president are thought to be immune from federal criminal indictment and prosecution by the DOJ, so any Emoluments Clause violations by these officials could only be resolved by impeachment or civil litigation, such as the action described below.

On June 12, 2017 the Attorneys General for the District of Columbia and the state of Maryland sued President Trump in federal court, alleging that payments by foreign governments to his global business empire violate anti-corruption provisions in the Constitution. According to the suit, Trump’s decision to retain ownership in his businesses “calls into question the rule of law and the integrity of the country’s political system.” The officials that filed the suit state that they will demand through the discovery process copies of Trump’s personal tax returns to gauge the extent of his foreign business dealings. The suit seeks an injunction to force Trump to stop violating the Constitution, but leaves it up to the court to decide how that should be accomplished.

This lawsuit is the first of its kind brought by government entities, and is just the latest suit in a series against Trump over the Emoluments Clause. Again, this issue has not been resolved, politically or in the courts.

**Federal Statutory Ethics.**

There are numerous federal statutes covering, or touching upon, Executive Branch ethics. A detailed discussion of these statutes is far beyond the scope of this document or the ability of the author. However, the Office of Government Ethics document [COMPILATION OF FEDERAL...](#)
ETHICS LAWS provides a list of the major statutes, along with the text of the statutes themselves, covering Executive Branch ethics if the reader wishes more information. The major sections of this document are:

- **Conflicts of Interest**: Bribery, acts by government officials, financial interests, solicitations of money and positions, and the like.
- **Procurement and Contracting**: Restrictions on disclosing information, acts by procurement officers, compensation from contractors, restrictions on Members of Congress making federal contracts, contracts with Members of Congress, and the like.
- **Gifts and Travel**: Gifts to federal employees, decorations, disposition of gifts, acceptance of reimbursement, reporting, acceptance of awards, and the like.
- **Employment**: Nepotism, competitive selection, dual pay, and the like.
- **Government Property and Information**: Public money, franking, lobbying, disclosure of information, and the like.
- **Political Activities**: The Hatch Act, allowed political activities, discharge for political purposes, political contributions, disclosures for political purposes, intimidation and coercion, use of the military to influence elections, and the like.

**Trump’s ethical issues.**
The following is a partial list of some of the questionable ethical practices involving Trump and his associates and family, compiled from the sources listed at the end of this document. It is only a partial list because the number and scope of potential ethical violations swirling around Trump and his administration is breathtaking, and each day seems to raise new questions. The volume of ethical complaints against the Trump administration became so great at one point that the Office of Government Ethics Director Walter Shaub called on the chairman of House Oversight Committee to become more engaged in overseeing ethics questions in the Trump administration.

**Unless stated otherwise, none of these have been proven to be illegal, but all are questionable from an ethics standpoint.** Omitted are clearly criminal matters (Flynn lying to the FBI, for example), and issues not related to the Trump administration (NY investigations into Eric Trump’s charitable foundation, for example). Yet, even with these removed, the number and scope of possible ethics problems is striking for an administration less than six months old.

- Trump had been advised prior to taking office to sell all his holdings, or at least place them in a true blind trust, to avoid conflicts of interest. The use of a blind trusts to hold assets while in office is common among politicians who strive to avoid conflicts of interest. Almost every recent president, with the exception of Obama whose assets
were mostly in treasuries, has used a form of a blind trust or liquidated their assets upon taking office.

However, Trump announced he would not liquidate his assets, would retain his full ownership interest in his assets, and would turn the routine business operations over to his sons. Walter Shaub, Director of the OGE, called the plan "wholly inadequate" and said it would leave Trump open to suspicion of corruption. Ethics experts Norman Eisen, Richard Painter, and others say Trump's solution is unacceptable and offers no assurance that Trump won't personally profit from the decisions he makes as president.

Trump has put forth the argument that, due to complexity and composition of his businesses and assets, he would suffer significant financial losses if he was to divest or liquidate his ownership stake. Yet Trump was aware of the nature and complexity of his businesses when he elected to run for the presidency, was presumably aware of the need to avoid conflicts of interest once in office since he talked about it during the campaign, and had the resources to obtain the necessary legal assistance. Trump wasn't appointed to office, he chose to run.

The argument has also been made that it would be impossible to fully isolate Trump from his assets if they were placed in a true blind trust, for his name is emblazoned over most of them. This may be true to some extent, but if his assets were transferred to a true blind trust and managed by an independent trustee (not family members, who communicate with him and may ultimately benefit from his assets) the potential for inappropriate personal gain through official actions would be lessened. As it is now, he retains his ownership interests, receives business profits, and has his businesses and assets managed by his children, who state they share financial reports and profits with him. What could go wrong?

- Trump has stressed that no federal law says he has to do anything about financial conflicts of interest. The president is exempt from many conflict of interest statutes. While he may be exempt from a strictly legal standpoint, his actions may be questioned from a political or ethical standpoint, and that is a valid perspective when it comes to impeachment. Impeachment, as has been outlined above, is a political rather than a legal action, and may be the only recourse against a sitting president, even when addressing Emoluments Clause violations. When considering Articles of Impeachment, only Congress defines “high crimes and misdemeanors”, and these may include political or ethical acts.

- Trump had promised to track foreign government income and donate such profits to the US Treasury to avoid Emoluments Clause violations, but later his organization stated that it would no longer do so due to the difficulty of the endeavor. Elijah Cummings (D-Md.), slammed the policy in a letter, claiming it allows foreign payments to remain hidden from the public. "Under the policy outlined in this pamphlet, foreign
governments could provide prohibited emoluments to President Trump, for example through organizations such as RT, the propaganda arm of the Russian government," Cummings said, referring to the Russian-owned RT cable network. "Those payments would not be tracked in any way and would be hidden from the American public."

- Trump has refused to make his personal tax returns public, unlike all other presidents since Nixon. He originally stated that he would make them public after the current tax audit was over, but later his spokesperson Conway indicated he would not release them at all. This is not illegal or unethical – an individual is under no legal obligation to release his/her tax returns to anyone except as required by law. However, withholding his tax returns is a departure from historical norms, creates questions about what is being hidden from the public, and does make it difficult, if not impossible, to determine what Trump's sources of income are and to whom he owes money, important information if one wants to determine if his official actions are personally benefitting him or if he is receiving money from foreign governments.

26 USC 6103(f), passed in 1924 and last used during the Obama administration, allows the “chairman of the Committee on Ways and Means of the House of Representatives, the chairman of the Committee on Finance of the Senate, or the chairman of the Joint Committee on Taxation” to obtain any individual’s tax returns. “Any return or return information obtained by or on behalf of such committee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both.” In February, 2017, a House floor vote on a resolution to request President Trump’s tax returns failed on a party line vote. If it is necessary for Congress to evaluate Trump’s tax returns in an ethics investigation, and there is the political will to do so, this statute makes it possible to obtain them. Trump’s tax returns are also subject to subpoena.

- By his own admission, Trump has reportedly violated the spirit, of not the letter, of the law by trying to stop ongoing investigations in which he may be involved. He pressured FBI Director Comey to drop the investigation of Trump’s campaign and Michael Flynn, firing Comey when he refused. In a subsequent TV interview, and also in an undisputed transcript of his Oval Office meeting with Russians, Trump stated that he fired Comey due to the FBI Russia investigation, possibly opening himself up to a charge of obstruction of justice. Trump also reportedly tried to get the DNI and the head of the NSA to pressure the FBI to end its investigation. This is at least a violation of the ethical norm of separating politics and law enforcement activities.

The firewall between the White House and FBI investigations was created after Nixon tried to stop the Watergate investigation by having the CIA intervene with the FBI. Speaker Ryan recently opined that Trump’s apparent interference in the FBI
investigation may be a sign of his ignorance of the law. As any prosecutor will tell you, that is not a valid defense, especially for one who has the White House Counsel and the entire legal resources of the DOJ at his disposal. If Trump has obstructed justice, a criminal act, the only current remedy is impeachment.

- Trump has publically called for specific criminal prosecutions, first of Hillary Clinton and more recently of leakers, instead of allowing the DOJ and FBI to perform their duties in a non-political manner. In our system of government the president sets enforcement goals, not determine or demand individual criminal prosecutions, especially of political opponents.

- Trump has denounced judges who disagree with him or his policies, hurling insults such as “this so-called judge”, “a single, unelected district judge”, “ridiculous”, “so political”, “terrible”, and “a hater of Donald Trump”.

Both before and after the election, Trump and his subordinates have publically ridiculed not only the unanimous assessment of the US intelligence community that there was Russian interference in the 2016 elections, with Trump saying “Take a look. They’re not sure. They’re fighting among themselves. They’re not sure”, but also calling into question the very credibility and integrity of these agencies whom the president works closely with to safeguard our nation. Trump advisor and spokesperson Conway once said “People are trying to politicize our intelligence because they do not like the election result.”

This effort to delegitimize or demonize those within government who opposes or disagrees with Trump or his policies goes beyond what is considered normal inter-Branch or inter-agency conflict, and into the realm of the improper and potentially corrosive to our nation’s critical institutions.

- Peru and China have apparently sped up trademark applications from Trump businesses, a possible Emoluments Clause issue due to value of the preference shown his businesses. A federal appeals court has ruled that trademark registrations in the United States bestow significant, financially valuable benefits. Unlike the United States, some foreign countries allow applicants to register trademarks defensively to stake out future ground. Even then, specialists say, approval is an economic asset.

For most of last year, Donald J. Trump’s application to register trademarks for his brand of home accessories languished in a government office in Lima, Peru. But since Mr. Trump was elected in November, the pace has picked up. A six-month-old request to register his brand of sheets, duvets, towels and other goods, now selling briskly at a home goods store in Lima, overcame a crucial hurdle in late December. So did a second application to protect Mr. Trump’s brand of flatware that was filed after the election.
On February 15, President Trump scored a long-sought-after victory when a Chinese court suddenly ruled in his favor in a trademark dispute. In the case, which had dragged on for more than a decade, the Trump Organization won sole rights to use the president’s name on products in the country, which would help prevent a bevy of unrelated entrepreneurs from applying it to a wide range of products, from toilets to clothing to condoms to explosives.

In a 2015 deposition discovered by the nonprofit Project on Government Oversight, Mr. Garten, the Trump Organization lawyer, said Mr. Trump personally owned his trademarks. He estimated that overseas sales made up as much as $140 million of $400 million in annual revenue generated by the sale of Trump-branded products and services. Last May, Mr. Trump reported to the Office of Government Ethics that in the previous 17 months he earned between $14 million and $65 million in royalties and licensing fees, up to two-thirds of it from overseas.

- Foreign officials curry favor by selectively staying at his hotels. Azerbaijan, Bahrain and Kuwait, moved their events from other hotels to Mr. Trump’s after his election, prompting lawsuits raising Emoluments Clause issues. The government of Saudi Arabia spent nearly $270,000 on lodgings and catering at the Trump International Hotel in Washington, D.C., between November 2016 and February 2017, as part of a lobbying campaign in which the Saudi government paid for U.S. veterans to travel to D.C. to advocate against the “Justice Against Sponsors of Terrorism Act”, which would allow 9-11 survivors to sue Saudi Arabia for the attack. In April, 2017 the ambassador of Georgia stayed at Trump’s Washington hotel and tweeted his compliments.

For the purpose of the Emoluments Clause, state governments are considered to be foreign governments (they are “foreign” to the federal government). The June 12, 2017 lawsuit filed against Trump by the Attorneys General for the District of Columbia and the state of Maryland alleges that Trump is violating domestic emoluments by creating a situation in which states feel compelled to compete for Trump’s favor, perhaps by offering zoning exemptions, waivers or other benefits to help his businesses. This lawsuit allegation has arisen because, after the Trump Organization initially said it would not pursue new deals while he was in office, Trump’s sons announced that the company would begin building a network of new hotels in mostly Republican-leaning states that he won in last year’s election, forcing the various states into a position of competition.

- Trump used his personal and official White House Twitter accounts to lash out at Nordstrom, saying that the company had treated his daughter “so unfairly” after the department store chain dropped his daughter’s line of goods. The @POTUS twitter account is an official government account, and Sean Spicer, the Press Secretary, recently said that Trump’s tweets from the @realDonaldTrump twitter account are also official pronouncements. This appears to be the use of his public office and government accounts to further the business interests of his daughter’s company.
• The Trump Organization’s contract with the General Services Administration for the Trump International Hotel, Washington, prohibits any elected official of the United States government from being part of the lease or deriving any benefit from it. As president, and in clear violation of the GSA contract, Mr. Trump is in effect both the landlord and tenant of the building. Incredibly, the GSA eventually ruled in Trump’s favor.

Trump will appoint five members to The National Labor Relations Board, an independent federal agency responsible for enforcing labor laws and safeguarding employees’ right to organize. The NLRB is in charge of investigating labor complaints brought by workers, which in the past has included those from employees at his hotels and other properties.

The head of the Internal Revenue Service is nominated by the president for a five-year term. Republicans have tried to impeach the current commissioner, John A. Koskinen, whose term ends on Nov. 12, 2017. Trump has continually complained of unfair treatment by the IRS, and is now in the position to appoint the next head of that agency.

Trump owns properties which are subject to HUD regulation. Trump holds an ownership stake in Starrett City, a 153-acre, 5,881-unit low-income housing development in Brooklyn. The development, according to ABC News, receives substantial federal funding via HUD’s many programs designed to support low-income renters and homeowners, and is subject to unwelcome HUD restrictions. Trump nominated Ben Carson to head HUD; Carson serves at Trump’s pleasure.

These are examples of the recurring issue of Trump appointing the heads and members of regulatory departments and agencies. He has retained ownership of his business assets, and in most cases his ownership interest is well known. Yet he is now in the position to appoint the very people who will regulate these business assets and operations. It is naive to believe that his position of authority will not, in some respect, influence the actions of his subordinates to his personal benefit, as was seen with the Trump International Hotel. Again, proper divestiture of his assets prior to taking office would have solved many, if not all, of these concerns.

• The Trump administration attempted to block the public disclose of the names of former lobbyists who have been granted waivers while working in the White House or federal agencies. The OGE insisted that the waivers were to be made public, and the Trump administration eventually relented. (See the Bannon retroactive waiver below)

• Trump spends significant time at his Mar-a-Lago resort in Palm Beach, Florida, and at other Trump properties. While there he often makes himself available to members and
guests. His repeated, highly-publicized trips to his branded properties raises ethical issues:

- They represent free advertising for his business due to his holding office.
- He personally profits when the government pays the resorts to house his traveling presidential entourage. The cost for his numerous mini-vacations run into the millions of dollars, paid by the US government.
- His advertised availability to members at the resort results in a “pay for access to the president” situation, available only to the rich.

It must be noted that after his election Trump raised the Mar-a-Lago membership fee 100%, from $100,000 a year to $200,000 a year. On his numerous vacations Trump usually stays or plays golf at his own business properties, providing them with valuable public exposure and free advertising, courtesy of his holding office.

- Trump has international business dealings with questionable partners. A Trump-branded tower in Baku, Azerbaijan, put him in business with allegedly corrupt officials who are themselves connected with the Iranian Revolutionary Guard, while two properties in Indonesia link him to officials implicated in a bribery scandal and a racially-motivated attempt to oust a sitting governor. With the Trump International Tower and Hotel in Toronto, according to the Wall Street Journal, one of Trump’s partners in the project, Alexander Shnaider, received millions of dollars from the Russian bank Vnesheconombank, or VEB, shortly before investing in the project. VEB is owned by the Russian government and is currently under US sanction.

- Trump’s international business ventures have also given certain foreign nations and individuals potentially improper access and leverage. Jose E. B. Antonio, a Philippine real estate magnate who was named last fall to be a special envoy to the United States, has licensed the use of the Trump name on a $150 million apartment tower. In Indonesia Trump’s firm is involved in building two luxury island resorts. After Mr. Trump was elected, his billionaire partner, Hary Tanoesoedibjo, who attended the inauguration, publicly boasted that he had access to the president, but later said he had meant Mr. Trump’s children.

- The Dakota Access Pipeline, or DAPL, was the subject of continual controversy during the presidential campaign. Shortly before the election, the Army Corps of Engineers announced that it would be halting progress on the pipeline for further environmental review and study. On January 24, however, only four days after President Trump took office, he decided to move forward with both DAPL and the Keystone XL pipeline.
According to financial-disclosure forms he filed in June 2015 and May 2016, Trump has owned stock in Energy Transfer Partners, the company seeking to build DAPL. The stock was worth between $500,001 and $1,000,000 in 2015 and between $15,001 and $50,000 in 2016. By approving the DAPL pipeline, Trump advanced the cause of a company he may own stock in. If he does own stock in DAPL is unknown, for he does not provide his financial information.

- Treasury Secretary Mnuchin believed that the government should cede control of the mortgage guarantors Fannie Mae and Freddie Mac. The two financial institutions’ stocks rose by more than 40 percent after Mnuchin stated that he believes the Trump administration “will get it done reasonably fast”. When Fannie Mae and Freddie Mac’s stocks rose, one major beneficiary was John Paulson, an adviser to the Trump campaign and a business partner of Mnuchin’s. Paulson’s hedge funds include significant investments in both Fannie and Freddie.

Trump himself has invested between $3 million and $5 million across three of Paulson’s funds, according to his filings with the Federal Election Commission (which remain the only available window into the president’s financial holdings). In other words, as the stock rises in value, Trump’s portfolio benefits, assuming he is still invested in the hedge funds, which is unknown because Trump’s finances are opaque.

- As the final entry on this partial list, Trump appears to be a serial liar. From the very start of his campaign, when he stated that Mexicans are rapists, until his recent description the Paris climate agreement, Trump has repeatedly lied to the American people and the world about things great and small. Trump lies so much that it barely registers anymore. Politifact, a fact-checking website, has seven full pages of lies that Trump has told to the American people. Not half-truths or misstatements or equivocations or exaggerations – demonstrable lies.

He as even had his spokespersons, surrogates, and subordinates publically make clearly false statements, from Spicer’s “This was the largest audience to ever witness an inauguration, period”, to Conway’s “alternative facts”, to McMasters’ recent denial that Trump shared classified information with the Russians in the Oval Office, a denial Trump himself refuted later on twitter. We are at the point that any statement from the White House is questioned.

The American people must have trust in their government for our society to work well. The loss of trust in our president and his administration due to repeated lying is corrosive and dangerous. One day during a real crisis Trump is going speak to the American people and they are not going to believe what he says. Constant lying may be his greatest ethical failure.

The list goes on and on. I think you get the point.
**Trump associates/family ethical issues.**

Unless they are specifically exempted by statute, as are the president and vice president, all other federal officials and employees are subject to federal ethics laws and regulations.

- 5 USC 3110 covers nepotism, or the employment of relatives.

  The statute includes in its definition of a relative “daughter” and “son-in-law”. “A public official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position in the agency in which he is serving or over which he exercises jurisdiction or control any individual who is a relative of the public official.” Note that Trump is the head of the entire Executive Branch.

  “An individual appointed, employed, promoted, or advanced in violation of this section is not entitled to pay, and money may not be paid from the Treasury as pay to an individual so appointed, employed, promoted, or advanced.”

The day after Trump was sworn in the Justice Department’s Office of Legal Counsel (OLC) determined that the statute does not apply to the president’s hiring of White House staff. This was an affirmative change of the office’s past analysis. In 1972, OLC determined that the law did apply to White House staff and would prevent President Richard Nixon from appointing a relative. A 1977 opinion likewise concluded that President Jimmy Carter could not legally appoint his son to an unpaid position in the White House.

Trump subsequently appointed his daughter, Ivanka, as an unpaid assistant to the president, while her husband, Jared Kushner, is an unpaid senior adviser to the president. Trump is relying on the subterfuge that their positions are unpaid, and thus are not improper under the statute (note that they are multimillionaires). The appointment of Trump’s relative violates the purpose of the statute: the focus of federal employment should be ability and skill, not family ties. We need our government officials and employees loyal to the country, not their relative who happens to be president.

- President Donald Trump’s social media director Dan Scavino apparently violated the law when he called on Trump’s allies to oust a Republican congressman from office in April, according to the Office of Special Counsel. The Hatch Act prohibits federal employees engaging in some forms of political activity while acting in their official capacity.

- Attorney General, Jeff Sessions, the nation’s head law-enforcement official, acts increasingly as a Trump political loyalist. He recently held a briefing in the White House press room instead of from the DOJ briefing room, described as “a jaw-dropping violation of norms” designed to reinforce the independence of the DOJ. Sessions has proclaimed, “This is the Trump era.”

- Kellyanne Conway, whose title is counselor to the president, violated a federal ethics rule against endorsing products or promoting an associate’s financial interests by saying...
in an Fox interview from the White House briefing room, “Go buy Ivanka’s stuff is what I would say. I’m going to give a free commercial here: Go buy it today, everybody; you can find it online.” Federal ethics rules state that an employee of the government’s executive branch cannot use public office for personal gain or to endorse products or services on behalf of friends or relatives. The White House said that Conway was “counseled”. Note that Conway is a lawyer.

- The Trump administration may have skirted federal ethics rules by retroactively granting a blanket ethics waiver that allows Stephen Bannon, the senior White House strategist, to communicate with editors at Breitbart News, where he was recently an executive. In January, President Trump signed an executive order that put in place stringent ethics rules for his political appointees like Mr. Bannon. Under the policy, Mr. Bannon would be barred from contacting Breitbart employees for two years to discuss issues that were under his purview while he was an executive there. The undated waiver given to Bannon negated these rules.

The undated waiver, and the fact that it remains unclear when it was originally issued, seemed unusual to Walter Shaub, the director of the Office of Government Ethics, who questioned its validity. “There is no such thing as a retroactive waiver,” Mr. Shaub said in an interview. “If you need a retroactive waiver, you have violated a rule.” Don Fox, the general counsel of the ethics office, wrote in April 2010 that “Waivers and authorizations must be issued prospectively in order to be valid.” The OGE only has the authority to advise, not investigate or refer cases for prosecution.

- At meetings with top officials for various government departments this spring, Uttam Dhillon, a White House lawyer, reportedly told agencies not to cooperate with information requests from congressional Democrats, according to Republican sources inside and outside the administration. The agencies were instructed to respond only to committee chairs, which are all Republicans. Congress has the legal obligation to provide oversight of many Executive agencies, and a formal order such as this suborns such oversight responsibility and represents a serious partisan political breach of norms.

The White House denies that any such order was issued, but responses to Democrats from the Office of Personnel Management, the General Services Administration, the Health and Human Services Department, and the Department of Education, all stating that they will only respond to committee chairs, indicates otherwise. Lawmakers and staffers agree that the Trump administration is excessively slow in providing information to Congress, if it is provided at all.

- As noted above, Ivanka Trump, even as an unpaid federal employee, is subject to Emoluments Clause prohibitions on personal financial gains from foreign governments. Her business has trademark applications pending in nine countries, some of which have
apparently expedited trademark applications for Trump. Yet she often attends official meetings with the heads of foreign states (Canada, Japan, China, Germany), some of whom are currently considering her trademark applications, a potentially valuable opportunity not available to her competitors who are not highly-placed federal employees. Her father’s position, coupled with her unique access to foreign officials due to her federal employment, obviously raise ethical questions.

- Treasury Secretary Mnuchin’s decision on, and statements about, government control of the mortgage guarantors Fannie Mae and Freddie Mac caused their stocks to rise by more than 40 percent (described above). A major beneficiary of this stock rise was John Paulson, a hedge fund manager, adviser to the Trump campaign, and a business partner of Mnuchin’s. It is unknown if Mnuchin benefited personally from the stock rise, but his business partner did. To avoid even the appearance of a conflict of interest or fiduciary failure, Mnuchin should have identified the possible result of his actions and recused himself from such pronouncements and decisions.

- During his Senate confirmation hearing to be the next Attorney General, Jeff Sessions denied under oath that he had any contacts with Russian officials during the Trump campaign. News reports later revealed that he had, in fact, had several meetings with Russian Ambassador Kislyak during the campaign, opening Sessions to the charge that he had at least misled the Senate during his confirmation hearing, or possibly even perjured himself. Sessions defense that he had met Kislyak in his capacity as a senator, not as part of the Trump campaign, was met with general skepticism. The end result of the disclosures was that Sessions was forced to recuse himself from the DOJ and FBI Trump campaign investigations, and Sessions’ impartiality as Attorney General is now open to question.

- After his meetings with Russian Ambassador Kislyak during the Trump campaign were revealed by the press, Attorney General Sessions, who was closely tied to the Trump campaign, decided to recuse himself from “any existing or future investigations of any matter relating in any way to the campaigns for president of the United States.” Legal experts say that recusal was appropriate, given Justice Department rules against taking part in an investigation involving close associates.

However, when Trump decided to fire FBI Director Comey due to, in Trump’s own words, the FBI investigation into Russia’s interference into the 2016 campaign, Sessions wrote a letter to Trump supporting the Comey firing. As Comey was leading the FBI’s Trump campaign investigation, this appeared to violate Sessions’ pledge to recuse himself from such matters.

It is unknown at this time if Sessions had any role in Trump’s selection of Christopher A. Wray as the new FBI Director, who would then lead the ongoing 2016 campaign.
investigation. If Sessions was involved in selecting Wray, this might be viewed as an additional violation of his formal pledge to recuse himself from such matters.

- While a member of Congress, HHS Secretary Tom Price reportedly purchased shares in a medical device manufacturer immediately before he introduced legislation that would benefit the company. Price purchased shares in Zimmer Biomet. Days later, he introduced the HIP Act to delay a Centers for Medicare and Medicaid Services regulation that industry analysts said would have significantly hurt that company financially. Price’s actions raised questions about whether he conducted insider trading while on Capitol Hill, an ethics violation. Price has promised to divest his Zimmer Biomet holdings, well after the impact of his actions in Congress was felt.

While the stock purchase took place before Price joined the Trump administration, the ethical concerns were well known when Trump nominated him. That Trump selected Price, and continues to support him in spite of these allegations, is remarkable and calls Trump’s judgement into question.

- On May 6, 2017 Nicole Kushner Meyer, the sister of White House adviser and President Trump’s son-in-law Jared Kushner, spoke at an event in Beijing marketing a Kushner-owned property in New Jersey. Part of her sales pitch was that investors would be potentially eligible for US EB-5 visas, which allows immigrants a path to a green card if they invest more than $500,000 in a project that creates jobs in the United States. This is not an unusual marketing ploy for US persons seeking foreign investment capital; lawmakers say the program essentially sells citizenship to high-income foreigners.

However, what makes this event appropriate for discussion here is how Nicole Kushner Meyer used her family connections to the Trump administration in her sales pitch. Meyer told the audience that "In 2008, my brother Jared Kushner joined the family company as CEO, and recently moved to Washington to join the administration." Having noted her brother’s political connections, she said that potential investors should act quickly because possible policy changes to the EB-5 program might raise the required minimum investment. Though she did not reference Trump by name, his photo appeared on a slide that listed the "key decision makers" on the EB-5 program.

Few people, especially those with $500,000 to invest overseas, do not know that her brother is Trump’s son-in-law and a close, trusted advisor. And if they didn’t already know, Meyer’s presentation was designed to communicate that fact.

To the journalists who witnessed the public event, but were later asked to leave, she was clearly communicating to potential investors that she and her company had real and substantial connections to the top policy makers in the US who controlled visas, including her brother’s father-in-law. Nicole Kushner Meyer is not a federal employee, did not present herself as one, is not subject to federal ethics laws or regulations, and
has not apparently broken any laws. But this is an example of how Trump’s unwise nepotism practices can be used to enrich others.

As with the ethics issues directly involving Trump himself, this list goes on and on.

**The role of Special Counsel Robert Mueller.**

On May 17, 2017, Deputy Attorney General Rod Rosenstein named former FBI Director Robert Mueller to serve as special counsel investigating Russia’s alleged involvement in the 2016 presidential election, including any possible involvement of President Donald Trump's campaign in that effort. This was done in response to political and public pressure over the firing of FBI Director Comey, and despite recent White House statements that they viewed the appointment of a special counsel as unnecessary.

In a statement Rosenstein said "A special counsel is necessary in order for the American people to have full confidence in the outcome. Our nation is grounded on the rule of law, and the Public must be assured that government officials administer the law fairly."

Politico describes Mueller’s tasks and authorities as special counsel:

- As special counsel, Mueller will have broad investigatory powers to look into how Russia may have influenced the 2016 election. The investigation, which could take months and will follow a separate track from congressional inquiries, likely will involve accessing classified documents and interviews, and Mueller can also convene grand juries and seek indictments if he deems it appropriate. He will have access to all the information the FBI and Justice Department have compiled so far.

Can Trump legally fire Mueller? Probably, for the old independent special counsel law 28 USC 595 was allowed to sunset in 1999, and Trump is in ultimately in charge of the entire Executive Branch, including the DOJ official which appointed Mueller. But in doing so Trump would reprise Nixon’s 1973 “Saturday Night Massacre” when Archibald Cox was fired in an attempt to thwart the Watergate investigation. It didn’t work out well for Nixon.

Unfortunately for those of us who closely follow developments, special counsel investigations are usually conducted out of the public eye, much like FBI investigations. Normally the only work products of such investigations are indictments and prosecutions, if any are sought or conducted. Under the current special counsel statutes a final public report of findings, as is often seen with congressional inquiries and special commission investigations, is not required.

It is important to point out that Mueller’s investigations will probably focus primarily on counter-espionage and criminal matters. It is possible that he may pursue ethics violations that are incidentally exposed, but most likely only as secondary matters to his primary task. We probably should look elsewhere for solutions to the majority of the Trump administration’s ethical problems.
What can be done?
The means and mechanisms to both prevent federal ethics violations and enforce ethics laws already exist.

- The Emoluments Clause exists to prevent public official corruption by foreign governments.

- Numerous long-standing federal statutes detail the fiduciary obligations of public employees and contain rules governing financial, political, contract, employment, foreign, military, and departmental issues and ethics.

- Within the Executive Branch the White House Counsel’s Office, Office of Government Ethics, DOJ, JAG, and departmental Inspectors General, among others, are there to provide ethics guidance.

- When ethics investigations are required within the Executive Branch they are performed by the FBI, White House Counsel’s Office, departmental Inspectors General, JAG, The Government Accountability Office, The United States Office of Special Counsel, among others.

- If prosecutions are called for these are conducted by the DOJ, or by the various JAG offices if military personnel are involved.

- If serious ethics or criminal violations are suspected of the president or vice president the Constitution provides impeachment as the investigative and corrective process.

What has apparently changed in Washington is the will to enforce the existing ethics rules and laws. What was in the past unacceptable has now suddenly become not only acceptable, but widely defended:

- A president who openly ignores calls by the OGE and others to take meaningful steps to prevent financial conflicts of interest. With the exception of Obama, who basically owned only treasuries, every president since Nixon has placed his assets in a blind trust or liquidated them to avoid even the mere appearance of conflicts of interest.

- A president who intentionally obscures his sources of income, his assets, and his debt profile from the public so that potential conflicts of interest or foreign government payments are hidden. Every president since Nixon, and most presidential candidates, have made their personal tax returns public so that everyone can see where they get their money and to whom they owe money.

- A president who ignores nepotism laws, using the subterfuge of unpaid positions to place his daughter and son-in-law into positions of authority and trust within his administration. In the 50 years since enactment of the anti-nepotism law, presidents
have generally avoided testing its limits. We need our government officials and employees to be loyal to the country, not their relative who happens to be president.

- **A president who is uniquely open to foreign governments who wish to curry his personal favor through favorable business dealings, creating Emoluments Clause questions.** By retaining ownership and operational knowledge over his assets, foreign governments may seek favor by either selectively patronizing his businesses, or by easing the regulatory path for his businesses operating in their respective countries. By either route, Trump realizes personal gain simply because of the office he holds, an Emoluments Clause problem.

- **A president who, by retaining ownership of his businesses while president, is simultaneously in charge of both his businesses and the government agencies that regulate them, a clear conflict of interest.** As the head of the Executive Branch, Trump appoints the head and senior management of dozens of regulatory bodies. Many of these officials serve at his will.

- **A president who does not respect the firewall between politics and federal law enforcement investigations.** Trump stated he fired FBI Director Comey because of the Russian election investigation which was also investigating his campaign, had reportedly asked the DNI and head of the NSA to intervene in an active FBI investigation, and has publically called for the prosecution of a political opponent, Hilary Clinton.

- **A president who uses his office to further his business and personal finances.** The government pays his business properties for housing his large official entourage and security during his frequent visits, Trump uses his position to extoll the virtues of his businesses (they have the best cake at Mar-a-Lago), and Trump offers presidential access to those who are willing and able to pay for inflated memberships at his resorts (a “pay for presidential access” issue). He has reportedly personally owned assets (stock in DAPL and position in John Paulson’s hedge funds) that have increased in value due to his administration’s actions.

- **A president who attempts to delegitimize or demonize those government institutions and agencies who opposes or disagrees with him.** Trump has not just disagreed with, but has called into question the very integrity of the courts and judges who have ruled against him, as well as the integrity of the intelligence agencies who found that Russia did interfere with the 2016 elections, acts which are corrosive to these critical institutions.

- **A president whose agencies have reportedly been instructed not to comply with oversight requests from Democratic lawmakers, only from committee chairs, which**
are all Republicans. Congress has the legal obligation to provide oversight of many Executive agencies, and a formal order such as this suborns such oversight.

- **A president who has used undated waivers to bypass his own stated ethics policies.** Trump, in violation of OGE rulings, has issued undated ethics waivers to subordinates to allow them to contact the previous employers they had lobbied the government for.

- **A president who has retained and supported cabinet members and aides who have faced significant ethical questions.** These currently include Sessions, Price, Mnuchin, Conway, and Scavino, and in the past included Flynn, Manafort, Christie, and Page.

- **A president who is a serial liar.** Ever since he started his run for the presidency, Trump has repeatedly lied to the American people dozens of times on issues great and small. One day in a real crisis, when Trump needs us to believe him, we will not. This may be his greatest ethical failure.

So what can be done?

Unfortunately, as individual citizens, there is little that can be done directly. Contacting the White House in an effort to have them rein in their own ethical lapses will not be productive as long as the GOP still views and supports Trump as useful for their legislative agenda. The basic ethics laws are in place, as are the advisory and investigative bodies needed to deal with federal ethics violations, but what is currently missing is the will to hold the Executive Branch accountable for its ethical problems.

**However, individual citizens can take indirect action to bolster and support the existing federal ethical machinery and prevent similar issues in the future:**

- **Work towards taking Democratic control of at least one house of Congress in 2018.** This is not a solely partisan suggestion, directed towards derailing Trump’s policy agenda. In the current unified government the GOP apparently tolerates the ethical lapses of the Trump administration because they want to further their political agenda. If the Democrats can take control of either the House or the Senate, then the full investigatory and oversight power of Congress can be realized. If the GOP retains full control of Congress, not much will be done until we reach a crisis state where real damage may occur.

- **Pressure Congress to fully investigate the Trump administration ethical lapses.** This can be done via the existing committees, or through the creation of special, non-partisan congressional commissions. What is critical is that the bodies conducting the investigations submit a public final report of their findings; we must know what is happening.

- **Pressure Congress to use 26 USC 6103(f) to obtain Trump’s tax returns.** This statute exists for the purpose of obtaining vital information, and it may be impossible for
Congress to determine if ethical violations have taken place without detailed knowledge of Trump’s income and debts.

- **Pressure Congress to remove the conflict of interest and ethical exemptions that the president and vice president currently enjoy.** No official should be exempt from doing their sworn duty to serve the people, not even the president and vice president, and removing these exemptions will prevent many problems with future administrations. It is of critical importance that the heads of the Executive Branch are held to a high ethical standard.

- **Pressure Congress to enact new legislation to expand financial disclosures rules for federal officials, including requirements for divestiture or the use of blind trusts upon taking office.** We must ensure that current and future officeholders are not open to financial manipulation or improperly benefitting from their office.

- **Advocate on behalf of the federal agencies which act as our ethical watchdogs and investigators,** such as the Office of Government Ethics, The Government Accountability Office, The United States Office of Special Counsel, the FBI, and others. Let Congress know that you support the work of these agencies, and that efforts to cut their funding or personnel, or to curtail their efforts, should be resisted.

- **Support the work of the press.** Much of the information about the inner workings of the Trump administration has become public due to the dogged investigatory work of our free, robust press. When compared to the benefits derived, subscriptions are a good investment.

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