

# The Bromwich Group

April 7, 2025

Honorable Todd Blanche  
Deputy Attorney General  
950 Pennsylvania Ave., NW  
Washington, DC 20530

Re: Elizabeth Oyer

Dear Mr. Blanche:

We represent Elizabeth Oyer, the former Pardon Attorney for the Justice Department, who was wrongfully fired on March 7, 2025. I am writing specifically with reference to the April 4, 2025, letter she received from Ms. Kendra Wharton of your Office. Ms. Oyer became aware late Friday evening that your Office had directed the Department's Security and Emergency Planning Staff to have two armed Special Deputy U.S. Marshals personally serve her with a letter at her home that night. The Deputy Marshals were directed to serve the letter between 9:00 pm and 10:00 pm, when Ms. Oyer's teenage child was home alone.

Fortunately, while the armed officers were en route to Ms. Oyer's home, she was able to confirm receipt of the letter – which had been sent to a secondary personal email address at 7:58pm – and forestall the hand delivery by the Deputy Marshals at her home. Had your Office simply contacted Ms. Oyer by telephone or via the email address that Ms. Oyer had repeatedly used to communicate with the Department's Justice Management Division, this deplorable incident could have been avoided entirely. Not to mention the waste of government resources involved in using Deputy US Marshals to accomplish the delivery of the letter at a time when the Administration is ostensibly committed to ferreting out waste, fraud, and abuse.

This highly unusual step of directing armed law enforcement officers to the home of a former Department of Justice employee who has engaged in no misconduct, let alone criminal conduct, simply to deliver a letter, is both unprecedented and completely inappropriate. You appear to be using the Department's security resources to intimidate a former employee who is engaged in statutorily protected whistleblower conduct, an act

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that implicates criminal and civil statutes as well as Department policy and your ethical

obligations as a member of the bar. *See, e.g.*, 18 U.S.C. § 242; 5 U.S.C. § 2302(b)(8)-(9); Justice Manual § 1-7.120; D.C. Bar R.P.C. 8.4.

As to the April 4 letter, it addresses Ms. Oyer's scheduled appearance at a hearing on April 7, 2025. Ms. Oyer was invited by Members of Congress to testify about the circumstances of her unlawful termination from the Department of Justice, where she served as Pardon Attorney, a nonpolitical position in the career Senior Executive Service. Ms. Oyer has appealed her termination based on the lack of statutorily required due process afforded to her and DOJ's disregard of whistleblower protections, among other issues.

The April 4 letter from one of your subordinates warns Ms. Oyer about the purported risks of testifying at a congressional hearing. At no point does the letter advise Ms. Oyer of the legal protections in place for whistleblowers, which protect current and former federal employees reporting violations of laws, rules, or regulations; gross mismanagement or waste of funds; abuse of authority; or a substantial danger to public health or safety. *See* 5 U.S.C. § 2302(b)(8)(A)(ii).

Nor does your letter contain the limiting language that is statutorily required when the Department purports to prohibit disclosures by a whistleblower, such as Ms. Oyer. *See id.* § 2302(b)(13). On the contrary, your letter and the attempted manner of delivery appear calculated to deter Ms. Oyer from providing truthful testimony as a whistleblower, in further violation of these legal protections.

Your tactics also appear to violate the Lloyd-LaFollette Act (5 U.S.C. § 7211), which provides that the right of employees "to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied." Executive branch employees are in fact required by federal regulation to "disclose waste, fraud, abuse, and corruption to appropriate authorities," which is precisely what Ms. Oyer seeks to do. Standards of Ethical Conduct for Federal Employees, 5 C.F.R. § 2635.101(b)(11), *available at* <https://www.justice.gov/jmd/regulations-authorities-and-reference-materials>.

As to the alleged legal basis for the attempt to intimidate Ms. Oyer from testifying — that her testimony is barred by executive privilege — the argument is completely without merit. The President has not asserted executive privilege over any matter at issue here, nor have you identified specific information potentially subject to such privilege. Moreover, executive privilege cannot be asserted to protect misconduct — as expressly noted in the OLC opinion cited in your letter. *Assertion of Executive Privilege in Response to Congressional Demands for Law Enforcement Files*, 6 Op. O.L.C. 31, 36 (1982) ("These principles will not be employed to shield documents which contain evidence of criminal or unethical conduct by agency officials from proper review.") (cited in your Letter at 1 n.1); *see also, e.g., In re Sealed Case*, 121 F.3d 729, 746 (D.C. Cir. 1997) ("[T]he privilege disappears altogether when there is any reason to believe government misconduct occurred.").

Additionally, the anticipated subjects of Ms. Oyer's testimony are matters of

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public record. Your letter specifically references “the Department’s consideration of the restoration of firearm rights, including to certain individuals.” This is the subject of a

public rulemaking process that was announced in the Federal Register on March 20, 2025, and about which thousands of public comments have been submitted.<sup>1</sup> Therefore, your suggestion that this is a confidential matter is frivolous. Moreover, you placed all of the facts and circumstances of Ms. Oyer’s termination squarely at issue on March 12 when you publicly and wrongly accused Ms. Oyer of making false statements in your own statement provided to media outlets.<sup>2</sup>

Ms. Oyer has every intention of testifying truthfully and consistent with all applicable legal and ethical obligations. She is an experienced attorney who has faithfully served the federal government for more than 13 years. Ms. Oyer will not be deterred by the intimidation tactics deployed by your Office from providing truthful, lawful testimony.

We will be requesting the DOJ Inspector General to investigate all aspects of this matter.

Sincerely,



Michael R. Bromwich

cc: Honorable Adam Schiff  
Honorable Jamie Raskin  
Honorable Dick Durbin

Honorable Michael E. Horowitz  
Inspector General

Kendra Wharton  
Associate Deputy Attorney General

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<sup>1</sup> See Interim Final Rule, *Withdrawing the Attorney General’s Delegation of Authority*, Docket No. OLP-179; AG Order No. 6212-2025 (Mar. 20, 2025), <https://www.federalregister.gov/documents/2025/03/20/2025-04872/withdrawing-the-attorney-generals-delegation-of-authority> (reflecting 4,751 comments received as of April 5, 2025).

<sup>2</sup> <https://www.rollingstone.com/politics/political-commentary/trump-justice-department-fired-mel-gibson-guns-1235296311/>