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Washington, D.C. 20036-4505

The Special Counsel

May 17, 2023

The President
The White House
Washington, D.C. 20500

RE: OSC File No. HA-22-000173

Dear Mr. President:

Pursuant to 5 U.S.C. § 1215(b), I am forwarding to you a U.S. Office of Special Counsel (OSC) report detailing Hatch Act violations by U.S. Attorney Rachael Rollins that are among the most egregious transgressions of the Act that OSC has ever investigated. OSC has concluded that Ms. Rollins violated the Hatch Act by (1) leaking non-public U.S. Department of Justice (DOJ) information so that news outlets would report that a political candidate she opposed was facing a potential DOJ investigation, and (2) attending a Democratic National Committee fundraiser while on duty, in her official capacity, and using a government-owned vehicle.

Ms. Rollins's conduct in leaking non-public DOJ information constitutes an extraordinary abuse of her authority and threatens to erode public confidence in the integrity of federal law enforcement actions. OSC now refers the violations, together with Ms. Rollins's response, to you for appropriate action.

Yesterday, OSC informed Ms. Rollins that this report would be released publicly today. Shortly thereafter, it was reported that Ms. Rollins intends to resign by the end of this week. Even if Ms. Rollins resigns, which would foreclose the possibility of any disciplinary action, I hope that this report provides an opportunity for you to emphasize to all federal employees the importance of serving the public in a professional and nonpartisan manner. The American people deserve nothing less.

Respectfully,

Henry J. Kerner
Special Counsel

Enclosures

U.S. OFFICE OF SPECIAL COUNSEL

Report of Prohibited Political Activity Under the Hatch Act
OSC File No. HA-22-000173 (Rachael Rollins)

May 17, 2023

EXECUTIVE SUMMARY

The U.S. Office of Special Counsel (OSC) has found that U.S. Attorney for the District of Massachusetts, Rachael Rollins, violated the Hatch Act and, in doing so, committed an extraordinary abuse of her power as U.S. Attorney. Chronologically, her first violation arose in July 2022 when, in disregard of legal advice from her own agency, and in violation of the Hatch Act, she attended a political party fundraiser in her official capacity. Her second violation occurred throughout August and September 2022, when she repeatedly attempted to sabotage the campaign of a political candidate by leaking non-public U.S. Department of Justice (DOJ) information to the media to plant a story that he was facing a DOJ investigation. This latter violation, in particular, is one of the most egregious Hatch Act violations that OSC has investigated.[1]

Hatch Act Prohibition at Issue

The Hatch Act prohibits covered employees from using their official authority or influence to interfere with or affect the result of an election by, for example, using their official title or position while participating in political activity.[2] "Political activity" is activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office and includes attending a political event.[3] Hatch Act case law similarly holds that an employee violates this prohibition by "act[ing] in [an] official capacity to further a partisan political campaign."[4] Thus, a covered employee may not, among other things, attend a political event in her official capacity or use her official position to support or oppose a candidate for partisan political office. The Hatch Act also prohibits employees from engaging in political activity while on duty or while using a government owned vehicle.[5]

Summary of Investigative Findings – Leaking Non-public Information to Affect an Election

OSC's investigation established that Ms. Rollins violated the Hatch Act by using her official authority to interfere with or affect the results of the 2022 election for District Attorney (DA) of Suffolk County, Massachusetts, when she leaked information about her office's recusal from a potential DOJ investigation of the candidate she opposed, incumbent DA Kevin Hayden. Ms. Rollins actively supported and was a *de facto* campaign advisor to Mr. Hayden's opponent in the Democratic primary, Ricardo Arroyo. On multiple occasions during the campaign, Mr. Arroyo raised with Ms. Rollins the possibility that her office announce an investigation of Mr. Hayden. At one point Mr. Arroyo wrote to Ms. Rollins that such an announcement "[w]ould be

[1] This report addresses the violations in order of seriousness instead of chronologically.
[2] *See* 5 U.S.C. § 7323(a)(1); 5 C.F.R. § 734.302(b)(1).
[3] *See* 5 C.F.R. § 734.101; *id.* § 734.306, Example 11.
[4] Special Counsel v. Malone, 84 M.S.P.R. 342, 363 (1999).
[5] *See* 5 C.F.R. § 734.306(a)(1), (4); *id.* Example 11.

the best thing I can have happen at this moment." Minutes later Ms. Rollins responded, "Understood. Keep fighting and campaigning. I'm working on something."

Over the next several weeks Ms. Rollins made three different attempts to surreptitiously disclose that DOJ might investigate Mr. Hayden for potential misconduct first made public in an August 6 *Boston Globe* article. The evidence clearly establishes that she did so for the purpose of harming Mr. Hayden's campaign. She first told a reporter at the *Boston Globe*—which Ms. Rollins knew was interested in writing about a potential investigation of Mr. Hayden—that her office "may be issuing a brief statement about [an investigation of Mr. Hayden] next week." This was the same *Globe* reporter to whom, earlier in the campaign, Ms. Rollins provided information highly critical of Mr. Hayden's management of the Suffolk County District Attorney's Office—including a list of 10 purported "failures"—all of which she wrote was "OFF THE RECORD!!!!" However, the *Globe* did not immediately run a story about an investigation of Mr. Hayden.

Ms. Rollins then received a letter from an acquaintance, a law professor, asking her to investigate Mr. Hayden. Mr. Arroyo learned of the letter and told Ms. Rollins that the professor had sent it to the *Globe*. Seeing that the *Globe* was not reporting on the letter, Ms. Rollins told Mr. Arroyo that he needed the professor to publicly release his letter. In addition, Ms. Rollins asked one of her subordinates to send the professor a written response stating that she was seeking recusal from a potential investigation of Mr. Hayden. However, the employee recognized that Ms. Rollins's request could lead the professor "to infer (and then share with the media) that DOJ is investigating" Mr. Hayden, so the employee declined the request.

The next day, Ms. Rollins contacted a *Boston Herald* reporter to set up a phone call. Forty minutes after they spoke, the reporter messaged the professor, who had written to Ms. Rollins, "I understand you reached out to the DOJ about the Hayden [alleged misconduct], and I've heard there might be some movement on that." The following day, *Herald* reporters contacted both Mr. Hayden's and Ms. Rollins's offices to ask about a potential DOJ investigation of Mr. Hayden. But the *Herald* ultimately did not run a story before the primary election.

On September 6, Mr. Hayden defeated Mr. Arroyo in the Democratic primary election. That evening, Mr. Arroyo and Ms. Rollins messaged about the results and allegations that during the campaign Mr. Hayden released records related to Mr. Arroyo. Ms. Rollins wrote, "This was just dirty and unethical. Such a piece of shit (illegal) move they did by leaking victims records. They are not above the law. He will regret the day he did this to you. Watch."

Three days later, and while Mr. Hayden was still a candidate in the general election, Ms. Rollins sent a *Herald* reporter pictures of a memorandum recusing her office from an investigation of Mr. Hayden. The *Herald* then published an article disclosing the recusal and potential investigation. Figure 1 shows a timeline of key events surrounding Ms. Rollins's leaking of information about the potential investigation of Mr. Hayden.

TIMELINE OF KEY EVENTS RELATED TO MS. ROLLINS'S DISCLOSURE OF INFORMATION ABOUT A DOJ INVESTIGATION OF MR. HAYDEN

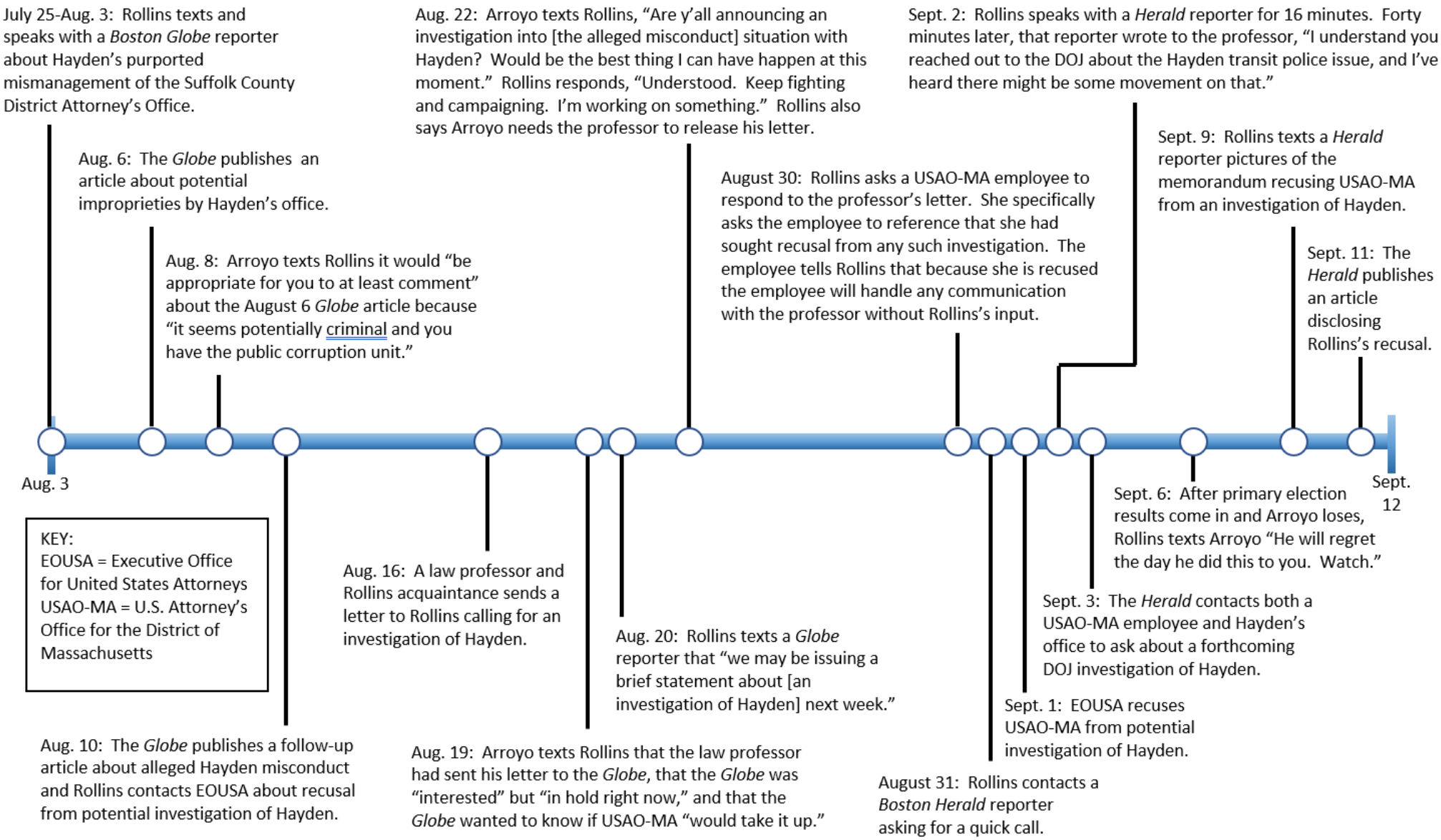

Fig. 1

Summary of Investigative Findings – Attending a Political Party Fundraiser

Ms. Rollins also violated the Hatch Act by attending a July 2022 Democratic National Committee (DNC) fundraiser in Andover, Massachusetts, while on duty, in her official capacity, and using a government vehicle. Prior to the event she was told repeatedly, both in person and by email, not to attend the fundraiser. That advice came from both her own staff and DOJ officials in Washington, DC. Ms. Rollins even admitted to OSC that she had been told "if you get there and the fundraiser has started, turn around and leave, or something like that." The Hatch Act implications were so apparent that a reporter outside the venue asked Ms. Rollins whether she was concerned that her presence at the event might violate the Hatch Act. Ms. Rollins responded "no" and, contrary to all the advice she had received, proceeded inside the fundraiser.

Ms. Rollins claimed that she did not attend the fundraiser but instead went to an event related to a U.S. Attorney's Office for the District of Massachusetts outreach program, the BRIDGES program. But there was no BRIDGES event in Andover that day. And her insistence that she did not attend the fundraiser is wholly contradicted by the evidence. For example, Ms. Rollins was invited to the fundraiser, was offered food and refreshments while inside, and took pictures with other attendees and with the fundraiser's guest of honor, First Lady Dr. Jill Biden. Ms. Rollins also knew that Dr. Biden was in Andover for a fundraiser, and she knew that she was going to a DNC event—Ms. Rollins in fact personally spoke with a DNC official to confirm Ms. Rollins's attendance. Thus, there is no merit to her contention that she did not attend the DNC fundraiser.

Conclusion

The legal trigger for OSC to submit a report to the President of Hatch Act violations by a Senate-confirmed presidential appointee is whether the violations warrant disciplinary action.[6] Ms. Rollins's violations clearly do. One of Congress's considerations in passing the Hatch Act was that "it is not only important that the Government and its employees in fact avoid practicing political justice, but it is also critical that they appear to the public to be avoiding it, if confidence in the system of representative Government is not to be eroded to a disastrous extent."[7] Ms. Rollins's abuse of her power within the federal justice system to achieve a political goal epitomizes the type of "political justice" that Congress intended to prohibit. There are no mitigating factors that would warrant an outcome short of disciplinary action. Accordingly, OSC refers the violations to the President for appropriate action.

[6] *See* 5 U.S.C. § 1215(a)-(b).
[7] U.S. Civil Serv. Comm'n v. Nat'l Ass'n of Letter Carriers, 413 U.S. 548, 565 (1973).

I. INTRODUCTION

The U.S. Office of Special Counsel (OSC) is an independent executive branch agency charged with enforcing the Hatch Act. This report contains the findings and conclusions of OSC's investigation of allegations that Rachael Rollins, U.S. Attorney for the District of Massachusetts, violated the Hatch Act by (1) using her official authority or influence to interfere with or affect the results of an election, and (2) engaging in political activity while on duty and using a government vehicle.[8] The investigation began in July 2022 with a complaint alleging that Ms. Rollins violated the Hatch Act in connection with her attendance at a Democratic National Committee fundraiser. OSC then broadened its investigation after learning that Ms. Rollins also leaked non-public U.S. Department of Justice (DOJ) information so that news outlets would report that a political candidate she opposed was facing a DOJ investigation, which similarly implicated the Hatch Act. In total, OSC interviewed or received information from 11 witnesses, including Ms. Rollins. OSC also reviewed over 1,500 pages of evidence, including emails, text messages, cell phone records, and social media records.[9]

As detailed below, OSC has substantiated the allegations and concluded that Ms. Rollins violated the Hatch Act. Accordingly, OSC submits this Report of Prohibited Political Activity to President Joseph R. Biden for appropriate disciplinary action.[10]

II. LEGAL STANDARD REQUIRED TO ESTABLISH A HATCH ACT VIOLATION

The Hatch Act imposes certain restrictions upon the political activity of federal executive branch employees. For purposes of the Hatch Act, an employee is "any individual, other than

[8] OSC also received allegations that Ms. Rollins may have violated the Hatch Act by maintaining an active campaign account with the Massachusetts Office of Campaign and Political Finance. Ms. Rollins created the account in connection with her 2018 candidacy for District Attorney of Suffolk County, Massachusetts. After Ms. Rollins became U.S. Attorney for the District of Massachusetts on January 10, 2022, the campaign account received 39 total contributions, all of which were $25 or less. Receiving political contributions while serving as a federal employee could implicate the Hatch Act prohibitions on knowingly soliciting, accepting, or receiving political contributions, 5 U.S.C. § 7323(a)(2), and on being a candidate for partisan political office, 5 U.S.C. § 7323(a)(3). However, there is no evidence to suggest that Ms. Rollins either knew of the contributions being made to the account or that she was considering running for partisan political office at the time the contributions were made. Rather, it appears that nearly all of the contributions were the result of automated contributions initiated prior to Ms. Rollins becoming U.S. Attorney for the District of Massachusetts, and Ms. Rollins directed that all the contributions be returned once she became aware of them. Accordingly, OSC has concluded that Ms. Rollins did not violate the Hatch Act in connection with the contributions to her campaign account.

[9] OSC provided a draft copy of this report, dated April 25, 2023, to Ms. Rollins for her review and comment. Ms. Rollins's comments are appended at the end of this report. In response to Ms. Rollins's comments, and in order to avoid unnecessarily disclosing private communications, OSC removed 11 exhibits showing text messages between Ms. Rollins and Ricardo Arroyo and the associated footnote citations, renumbered the remaining exhibits, and added footnote 23 summarizing text messages that had previously been included as an exhibit. OSC also made non-substantive typographical edits. Ms. Rollins did not present any information or arguments affecting OSC's statement of the facts, analysis, or conclusions, and so the rest of the report is unchanged.

[10] *See* 5 U.S.C. § 1215(b).

the President and the Vice President, employed or holding office in . . . an Executive agency other than the Government Accountability Office."[11]

Ms. Rollins's conduct implicates two provisions of the Hatch Act. The first, at 5 U.S.C. § 7323(a)(1), prohibits (1) federal Executive branch employees (2) from using their official authority or influence (3) for the purpose of interfering with or affecting the result of an election.[12] The attendant Hatch Act regulation makes clear that it is a prohibited use of official authority for an employee to use her official title or position while participating in political activity.[13] "Political activity" is activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office and includes attending a political event.[14] Hatch Act case law similarly holds that an employee violates this prohibition by "act[ing] in [an] official capacity to further a partisan political campaign."[15] Thus, a covered federal employee violates this "use of official authority prohibition" by, among other things, either attending a political event in her official capacity or using her official position to support or oppose a candidate for partisan political office.

The second, at 5 U.S.C. § 7324(a)(1) and (4), prohibits (1) federal Executive branch employees (2) from engaging in political activity (3) while on duty or using any vehicle owned or leased by the Government of the United States. The same definition of "political activity" applies to this prohibition as applies to the use of official authority prohibition; it is activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office and includes attending a political event. The definition of "on duty" includes those times when an employee is representing an agency of the United States Government in an official capacity.[16] A covered federal employee violates this prohibition by, among other things, attending a political event in her official capacity or by using a government vehicle to attend a political event.[17]

III. INVESTIGATIVE FINDINGS

OSC's investigation determined that in 2022, Ms. Rollins committed multiple serious and knowing violations of the Hatch Act. In August and September, she violated 5 U.S.C. § 7323(a)(1) by leaking non-public DOJ information, including a recusal memorandum, so that it

[11] 5 U.S.C. § 7322(1).
[12] *See* 5 U.S.C. § 7323(a)(1).
[13] *See* 5 C.F.R. § 734.302(b)(1).
[14] *See* 5 C.F.R. §§ 734.101, 734.306, Example 11 ("If a political event begins while an employee is on duty and continues into the time when he or she is not on duty, the employee must wait until he or she is not on duty to attend the event.").
[15] Special Counsel v. Malone, 84 M.S.P.R. 342, 363 (1999).
[16] *See* 5 C.F.R. § 734.101.
[17] There is a limited exception to this prohibition for certain employees appointed by the president by and with the advice and consent of the U.S. Senate, 5 U.S.C. § 7324(b), but as explained *infra* note 66, that exception is inapplicable here.

would be reported in the press that the candidate she opposed in the election for District Attorney of Suffolk County, Massachusetts, was about to be investigated by DOJ. In July she violated 5 U.S.C. §§ 7323(a)(1), 7324(a)(1), and 7324(a)(4) by attending a Democratic National Committee fundraiser in her official capacity and traveling to and from that fundraiser in a government vehicle. Ms. Rollins's unabashed willingness to use DOJ resources, information, and her official authority as a U.S. Attorney in furtherance of partisan political goals is directly contrary to both the letter and spirit of the Hatch Act.

A. Ms. Rollins is subject to the Hatch Act.

The Hatch Act restricts the political activity of "any individual, other than the President and the Vice President, employed or holding office in . . . an Executive agency other than the" Government Accountability Office.[18] As U.S. Attorney for the District of Massachusetts, Ms. Rollins is employed by DOJ. DOJ is an Executive agency.[19] Accordingly, Ms. Rollins is employed by an Executive agency and is therefore subject to the Hatch Act.[20]

Because Ms. Rollins is subject to the Hatch Act, DOJ provided her with training about the law and its provisions. On the day Ms. Rollins was sworn in as U.S. Attorney, staff at the U.S. Attorney's Office for the District of Massachusetts gave her an in-person ethics training. That training included a slide deck with 12 slides about the Hatch Act. One slide specifically discussed the use of official authority prohibition and gave examples of how an employee might violate that prohibition by, for example, using one's official title or position when engaging in political activity, or by using agency resources or non-public information for political purposes.

B. Ms. Rollins violated the Hatch Act when she leaked non-public DOJ information for the purpose of damaging the campaign of Suffolk County District Attorney candidate Kevin Hayden.

OSC's investigation established that Ms. Rollins used her official authority as U.S. Attorney for the District of Massachusetts to interfere in the 2022 election for District Attorney (DA) of Suffolk County, Massachusetts. Ms. Rollins was a *de facto* campaign advisor to Ricardo

[18] 5 U.S.C. § 7322(1).
[19] *See* 5 U.S.C. §§ 101, 105 (classifying DOJ as an Executive department and defining "Executive agency" to include Executive departments).
[20] Certain federal employees are "further restricted" under the Hatch Act and may not take an active part in political management or campaigns. *See* 5 U.S.C. § 7323(b). As a Senate-confirmed presidential appointee, Ms. Rollins is not "further restricted" by statute and so is not subject to the "further restricted" rules for purposes of OSC's jurisdiction. *See id.* (exempting from the "further restricted" rules those employees "appointed by the President, by and with the advice and consent of the Senate"). However, Ms. Rollins is considered a "further restricted" employee for purposes of DOJ policy. Because OSC has no jurisdiction to apply the "further restricted" rules to Ms. Rollins, OSC makes no finding with respect to whether any of her conduct described in this report constitutes taking an active part in political management or campaigns and leaves any such determination to DOJ, the agency that promulgated the applicable policy.

Arroyo, a candidate in the Democratic primary held on September 6, 2022. As part of an effort to harm the campaign of Mr. Arroyo's opponent, incumbent DA Kevin Hayden, Ms. Rollins gave reporters non-public DOJ information so that they would report that Mr. Hayden was facing a potential DOJ investigation. This included sending one reporter pictures of a DOJ memorandum recusing her from an investigation of Mr. Hayden with instructions that the leak was "off the record," "not attributed to me," and that the reporter "CANNOT leak the document." Ms. Rollins leaked the information after being told by Mr. Arroyo that the announcement of a DOJ investigation of Mr. Hayden would be "the best thing I can have happen at this moment." By leaking non-public DOJ information for the purpose of damaging Mr. Hayden's campaign, Ms. Rollins violated the Hatch Act prohibition against using her official authority or influence for the purpose of interfering with or affecting the results of an election.

1. *Ms. Rollins worked behind the scenes to assist Suffolk County DA candidate Ricardo Arroyo and oppose incumbent DA Kevin Hayden.*

Ms. Rollins actively supported Mr. Arroyo in his campaign for Suffolk County DA, and for months leading up to the election she was in regular communication with him about his campaign.[21] Ms. Rollins gave him advice and encouragement and also suggested lines of attack for Mr. Arroyo to use against his opponent, Mr. Hayden. The following are representative examples of the hundreds of text messages[22] that Ms. Rollins and Mr. Arroyo exchanged. Unless otherwise indicated through use of brackets, all text messages are reproduced as written and include the sender's typographical and grammatical errors.

- A July 12 text message in which Ms. Rollins identified Mr. Hayden's endorsers and wrote, "5 endorsements. 4.5 of them White. No mercy. Finish him."
- A July 20 text message in which Ms. Rollins wrote about news coverage of a judicial ruling, "Stood alone on this. Wrote the pleading and signed it myself. Fought my office tooth and nail to do so and then had to fight my 4 'collegues' and won. But Hayden is quoted as if he did shit. Boy bye. . . . Not for public consumption. Just for you, but you can use those facts."
- A July 23 text message in which Ms. Rollins wrote, "Also, [hit] Kevin on the MBTA investigation. . . . the next time he says he is aligned with me, mention List of 15 (you already do that) and [a case allegedly mishandled by Mr. Hayden's office] (just did, keep it up), and ADD THE MBTA. You are doing a great job. Keep it up."

[21] The reason for Ms. Rollins's support appears to be that Mr. Arroyo publicly aligned himself with the policies she enacted during her tenure as Suffolk County DA. For example, Mr. Arroyo referred to the 2022 Democratic primary as "a referendum on whether or not voters want to continue with the reforms Rachael Rollins has begun or go backwards." Michael Jonas, *Rollins reforms loom over Suffolk DA race*, CommonWealth, Feb. 18, 2022, *available at* https://commonwealthmagazine.org/criminal-justice/rollins-reforms-loom-over-suffolk-da-race-2/. Ms. Rollins also suggested in a text message to Mr. Arroyo that he "[m]aybe point out that Kevin [Hayden] does not actually support much that I stand for."

[22] As used in this report, the term "text message" refers to electronic communications sent or received using SMS, MMS, iMessage, WhatsApp, or any similar electronic messaging system.

- An August 8 text message in which Ms. Rollins wrote of Mr. Hayden, "Light him up."
- An August 20 text message in which Ms. Rollins told Mr. Arroyo to "never underestimate 'little papers'" when it comes to campaign communications and also to "Start going to Black churches. 2 every Sunday. Go to his church. I'm serious. Chances are he won't be there. That takes."
- An August 28 text message in which Ms. Rollins asked Mr. Arroyo, "When is the [Boston] Globe making their announcement about endorsing? When is your interview? If you aren't interviewing, can you have [an individual] work on keeping them out of your race?"

Ms. Rollins's messages show that she was functionally a campaign advisor to Mr. Arroyo. For example, after an incumbent elected prosecutor in a different jurisdiction lost in a primary election, Ms. Rollins wrote to Mr. Arroyo with messaging tips: "We have to have talking points about this. People are going to say this is a trend. . . . Say legal issues likely clouded this election. . . . You have respect for the hard work the police do, but you will hold them to a high standard, as you should. Good luck." Mr. Arroyo similarly treated Ms. Rollins as a campaign advisor, including by sending her campaign communications to review and by asking her to speak with reporters on his behalf.[23] Ms. Rollins admitted to OSC that she agreed to speak with reporters at Mr. Arroyo's request.

Ms. Rollins was so involved in the Suffolk County DA election that she began to view some of her official engagements as U.S. Attorney through the lens of whether they would help Mr. Arroyo's or hurt Mr. Hayden's campaigns. She described to OSC how when she went to events in communities that voted for her for Suffolk County DA in 2018, Mr. Hayden would constantly appear next to her. Ms. Rollins thought that "lots of people believed I was endorsing Kevin Hayden because of all the public-facing events that we were at together" and that "I just felt like everywhere I was, DA Hayden was always there because I got a lot of the votes that he had wanted." In an apparent effort to give Mr. Arroyo similar exposure, Ms. Rollins messaged him and wrote, "Make sure you let me know about stuff that I can show up at. And we can 'happen' to be there together."[24]

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[23] For example, on August 22, 2022, Mr. Arroyo told Ms. Rollins that he would ask a reporter to reach out to her about an issue relevant to the campaign. And the next day, Mr. Arroyo sent Ms. Rollins a proposed campaign statement that Ms. Rollins edited and sent back to him.

[24] The Hatch Act prohibits employees from using their official authority or influence for the purpose of interfering with or affecting the results of an election. 5 U.S.C. § 7323(a)(1). OSC has issued multiple public reports concluding that employees violate this prohibition by scheduling official events for the purpose of promoting or supporting a candidate for partisan political office. *See* U.S. Office of Special Counsel, Investigation of Political Activities by Senior Trump Administration Officials During the 2020 Presidential Election 37 (Nov. 9, 2021) ("[T]he Hatch Act prohibits government officials from holding purportedly official events for the purpose of promoting a candidate for partisan political office."); *see also generally* U.S. Office of Special Counsel, Investigation of Political Activities by White House and Federal Agency Officials During the 2006 Midterm Elections, Chapter Five (Jan. 2011) (government officials cannot engage in otherwise-permissible events if the underlying purpose is to promote the campaign of a candidate for partisan political office). If Ms. Rollins held official events alongside Mr. Arroyo for the

Aside from advising Mr. Arroyo in his campaign, Ms. Rollins also served as a source for news articles critical of Mr. Hayden. From July 25 to August 10, Ms. Rollins both spoke and texted multiple times with a *Boston Globe* reporter about Mr. Hayden.[25] In those text messages Ms. Rollins gave the reporter a list of Mr. Hayden's purported "failures" since he had been appointed as DA, accused him of "cowardice and poor leadership," and suggested that he had no incentive to prosecute law enforcement officers.[26] She also sent the reporter lines of inquiry to pursue in reporting on whether Mr. Hayden's office was delaying a case involving alleged police officer misconduct.[27]

Ms. Rollins's efforts on behalf of Mr. Arroyo show that she was personally involved in, and committed to, his campaign for Suffolk County DA. Furthermore, in suggesting that she and Mr. Arroyo should "happen" to be at official events together to counteract any electoral benefit that Mr. Hayden received from appearing with her, Ms. Rollins expressed a desire to go beyond providing behind-the-scenes advice and in fact use her position as U.S. Attorney to benefit Mr. Arroyo's campaign. And her messages make clear that she both strongly disagreed with Mr. Hayden's management of the Suffolk County District Attorney's Office and was eager to discuss his "failures" with reporters. Thus, the evidence establishes that in addition to supporting Mr. Arroyo, Ms. Rollins was actively opposed to Mr. Hayden's candidacy.

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purpose of supporting his campaign, as suggested by her text message, that would have constituted an additional violation of the Hatch Act. OSC learned of Ms. Rollins's text message at the end of its investigation. Considering the seriousness of the violations documented in this report, OSC decided not to delay issuance of this report in order to timely notify the President of Ms. Rollins's egregious misconduct.

[25] *See* Ex. 1, at 1-8.

[26] *Id.* at 2, 6. In one representative text message, Ms. Rollins wrote:

> "OFF THE RECORD!!!! . . . Here are the things Kevin undid in the first few weeks of his appointment to serve the remained of my elected term (or other failures): . . . Fired [an employee] without ever meeting with him. We had several key Public Private Partnership that I had created and cultivated . . . that he jeaprodizes and/or lost because of his arrogance or ignorance, or both. . . . Ended the List of 15. Arguably what I am known for the most, he ended. And claims he want a case by case analysis – proving he doesn't know what he is talking about or anything about the List of 15. I wanted thing in writing so everyone got the same rules applied to them. Kevin is leaving everything to his ADAs, that no longer revive the culturally competent training I established. Or if he says they do, IT IS BECAUSE I ESTABLISHED THE TRAINING. . . . He gets a complete pass for screwing up the Sex Offenser Board (whose SOLE mission is to document where sex offenders are) by losing over 1000 sex offenders, but every article about Ricardo always mentions [REDACTED]. He also made a horrible statement about criminal defense attorneys and the Kevin always believes victims. Ask Kevin about the victim [REDACTED] sexually assaulted on a plane. Does he believe her? . . . Let me know if you need anything else." *Id.* at 2.

[27] *Id.* at 8.

2. In August 2022, Ms. Rollins sought a recusal from DOJ regarding a potential investigation of Mr. Hayden.

On August 6, 2022, the *Boston Globe* published an article reporting potential improprieties in how Mr. Hayden's office had handled a police misconduct investigation. The article raised the possibility of a *quid pro quo* involving a defense attorney making contributions to Mr. Hayden's election campaign. The *Globe* published a related article on August 10. Because the disclosures in the two *Globe* articles related to matters potentially within the jurisdiction of Ms. Rollins's office, Ms. Rollins contacted the Executive Office for United States Attorneys (EOUSA) to seek recusal from any investigation of Mr. Hayden.

On August 16, prior to DOJ acting on Ms. Rollins's recusal request, a law-professor acquaintance, with whom Ms. Rollins regularly communicated, sent her a letter calling for an investigation of Mr. Hayden based upon the reporting in the *Globe* and other outlets.[28] Ms. Rollins forwarded the professor's letter to EOUSA and said, "We will not respond until you and I have a discussion."

On September 1, DOJ recused Ms. Rollins and the entire U.S. Attorney's Office for the District of Massachusetts (USAO-MA) from the potential investigation and prosecution of Mr. Hayden. Ms. Rollins understood that her recusal meant there must be some underlying matter to be recused from, which in this case was an investigation of Mr. Hayden.[29] She also understood, as she wrote in a text message, that public disclosure of an investigation of Mr. Hayden "of course" would impact the election.[30] So she set about to do just that—impact the election in its final weeks by using her recusal as the basis for telling reporters that Mr. Hayden was facing a DOJ investigation.

3. Ms. Rollins, knowing that Mr. Arroyo wanted her to announce an investigation of Mr. Hayden, leaked information about her recusal to reporters so that they would write that Mr. Hayden was facing an investigation.

Ms. Rollins knew that Mr. Arroyo wanted a potential investigation of Mr. Hayden made public. On August 8, he wrote to Ms. Rollins that it would "be appropriate for you to at least comment" about what the *Boston Globe* reported about Mr. Hayden because "it seems potentially criminal and you have the public corruption unit." On August 19, Mr. Arroyo told Ms. Rollins that the professor had given the *Globe* a copy of his letter requesting an

[28] Most of Ms. Rollins's emails with the professor were sent and received from her personal email account, though the professor sent the August 16 letter to both Ms. Rollins's DOJ and personal email accounts.
[29] When testifying to OSC about her recusal from a potential investigation of Mr. Hayden, Ms. Rollins said: "I didn't have any information about what we were or weren't doing because I wasn't involved in any investigation. But I knew that I was being—or was—recused from this matter completely. And therefore somebody was going to at least look and see."
[30] When texting with a reporter about her recusal from an investigation of Mr. Hayden, Ms. Rollins wrote: "I think DOJ was fearful of weighing in and impacting the election. And of course, it would have and did." Ex. 2, at 7.

investigation of Mr. Hayden. Mr. Arroyo further said that the *Globe* was "interested" but wanted to know whether USAO-MA "would take it up" and that his campaign was "pushing" for an article. On August 22, he wrote, "Are y'all announcing an investigation into [the police misconduct case] situation with Hayden? Would be the best thing I can have happen at this moment." Minutes later, Ms. Rollins responded, "Understood. Keep fighting and campaigning. I'm working on something."

Ms. Rollins told OSC that she could not recall what she meant by "I'm working on something" but, in reference to the inculpatory nature of the message, she said she "underst[ood] what that looks like." And it is clear from the evidence that what she was working on was how to disclose that Mr. Hayden was facing a federal investigation. Her first attempt was in response to Mr. Arroyo's August 19 message in which he said that the *Globe* had the professor's letter and wanted to know whether USAO-MA "would take it up."[31] Ms. Rollins asked Mr. Arroyo whether there was "any movement" from the *Globe*, and Mr. Arroyo responded that the *Globe* was "in hold right now." The next day, in what appears to have been an attempt to spur a *Globe* article, Ms. Rollins messaged a reporter from the *Globe* and said "we may be issuing a brief statement about [an investigation of Mr. Hayden] next week. I will let you know."[32] Although Ms. Rollins's language implied USAO-MA was considering an investigation, the *Globe* did not immediately run an article.

Two days later, on August 22, Ms. Rollins told Mr. Arroyo that he needed the professor to release his letter requesting that USAO-MA investigate Mr. Hayden. On August 30, Ms. Rollins asked a USAO-MA employee to respond to the professor's letter. According to the employee, Ms. Rollins "wanted the [the response to the professor] to say that she had sought the recusal from EOUSA."[33] The employee declined to include that language because, as the employee wrote in an email to EOUSA discussing a proposed response to the professor, the employee understood that it might lead the professor "to infer (and then share with the media) that DOJ is investigating." EOUSA agreed that disclosing the recusal might "giv[e] the impression that the department is investigating the matter." At the time that Ms. Rollins made this request she knew that the professor had provided information to the *Globe*, she had suggested to Mr. Arroyo that he have the professor make his letter public, and, like both the USAO-MA and EOUSA employees, she understood that a recusal indicated that someone was investigating Mr. Hayden. However, the USAO-MA employee intentionally waited until after

[31] The evidence strongly suggests that Ms. Rollins and Mr. Arroyo strategized about how the professor's letter might be used as the basis for a story about a DOJ investigation of Mr. Hayden. On August 17, the day after she received the professor's letter, Ms. Rollins spoke with Mr. Arroyo for 35 minutes. It is unclear what they discussed. But two days later, and with no other context, Mr. Arroyo texted Ms. Rollins that "[the professor] sent the request to globe." Despite the lack of context, Ms. Rollins did not express any surprise, confusion, or misunderstanding about what Mr. Arroyo meant. She simply responded, "Any movement for you?"

[32] Ex. 3, at 1.

[33] Although the employee could not recall the exact date of the call, based upon the employee's description of the call and OSC's review of relevant phone records it is most likely that the call took place on August 30.

the Democratic primary to respond so as to avoid any potential use of the USAO-MA response in connection with the election, thus frustrating Ms. Rollins's efforts.

With one week to go until the Democratic primary, the *Globe* had not run a story about a potential investigation of Mr. Hayden, and Ms. Rollins had been unable to get USAO-MA to respond to the professor's letter. So she then turned to the *Boston Herald*.

On August 31, Ms. Rollins messaged a *Herald* reporter asking for a quick call.[34] The two spoke by phone for 16 minutes on Friday, September 2. Ms. Rollins told OSC that she could not recall what she and the reporter discussed but admitted that she may have talked about a potential DOJ investigation of Mr. Hayden. Approximately 40 minutes after speaking with Ms. Rollins the reporter messaged the professor and wrote, "I understand you reached out to the DOJ about the Hayden [REDACTED] issue, and I've heard there might be some movement on that."[35]

The next day, September 3, the *Herald* reporter called a USAO-MA employee to ask about the investigation of Mr. Hayden. According to the employee, the reporter was aware of Ms. Rollins being recused from any such investigation and indicated that the reporter wanted to run a story prior to Tuesday, the date of the Democratic primary. Based upon the information that the reporter shared, the employee correctly inferred that the reporter had been speaking with Ms. Rollins and cautioned the reporter to consider whether the reporter's source might have an "axe to grind" against Mr. Hayden.

That same day, a different *Herald* reporter emailed Mr. Hayden's office and wrote that the *Herald* had "information that there will be an investigation into the Suffolk District Attorney's office over the DA's decision not to prosecute [a particular case]. I was looking for a response from the DA's office regarding the investigation, which involves a claim that [a defense attorney], a donor to Kevin Hayden, prompted the DA not to prosecute."[36] Mr. Hayden's office recommended that the reporter "vet your sources thoroughly because this has the ring of campaign season silliness."[37] Ultimately, the *Herald* held the story until after the September 6 primary.[38]

Despite her efforts, Ms. Rollins was unable to get either the *Globe* or the *Herald* to run an article about a potential investigation of Mr. Hayden prior to the September 6 Democratic primary election. Mr. Hayden won the primary and advanced to the November 8 general

[34] Ex. 2, at 1.
[35] Ex. 4, at 1.
[36] Ex. 5, at 1.
[37] *Id.*
[38] *Id.* at 8.

election. After the election results came in on September 6, Mr. Arroyo messaged Ms. Rollins about the campaign. She responded:

> This was just dirty and unethical. Such a piece of shit (illegal) move they did by leaking victims records. They are not above the law. He will regret the day he did this to you. Watch.

On September 9, Ms. Rollins spoke for 15 minutes with the same *Herald* reporter with whom she spoke on September 2. Approximately 30 minutes later the reporter emailed the Suffolk County District Attorney's Office (SCDAO) and wrote, "According to a federal law enforcement source, the DOJ is looking into investigating the SCDAO around [an SCDAO] investigation. I'm getting more specifics later today . . . . I believe one of my coworkers put this to you last weekend for a story we ultimately decided to hold . . . ."[39] Over the next 80 minutes SCDAO and the reporter exchanged emails about the nature of the investigation and the reliability of the reporter's source.[40] After emailing with SCDAO, the reporter messaged Ms. Rollins and asked for a copy of the recusal memo. She sent it to him, "Off the record. Not attributed to me. Prefer you say source within DOJ with information who preferred to stay anonymous for fear of discipline or something like that. Also you CANNOT leak the document."[41] On September 11 the *Herald* published an article quoting from the recusal memo and describing a potential investigation of Mr. Hayden.

Notably, in leaking information about the potential investigation of Mr. Hayden, Ms. Rollins chose news outlets for whom she had previously served as a source. In May 2022 she leaked a non-public DOJ letter to the *Herald* describing a DOJ investigation, which resulted in the *Herald* publishing an article that same day.[42] In June 2022 she similarly leaked a non-public DOJ letter to the *Globe* describing a separate DOJ investigation, which again resulted in an article that same day.[43] And in early August she provided information to a *Globe* reporter relevant to that paper's reporting about Mr. Hayden and his purported failures as DA. Ms. Rollins's efforts to leak information about the potential investigation of Mr. Hayden were consistent with, if less immediately successful than, her prior leaks of information about DOJ investigations.

In sum, there is no question that Ms. Rollins leaked a copy of her recusal letter to the *Herald* on September 9, after the primary election and before the general election; Ms. Rollins admitted as much and provided OSC with the relevant text messages. The evidence also shows that she leaked information about her recusal and a potential investigation of Mr. Hayden prior to the September 6 primary election. Ms. Rollins was in contact with multiple reporters before

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[39] *Id.*
[40] *Id.* at 5-8.
[41] Ex. 2, at 3.
[42] Ex. 6, at 1-5.
[43] Ex. 7, at 1-8. The frequency with which information about cases would leak shortly after Ms. Rollins received that information led one employee to describe Ms. Rollins as the "queen of coincidental timing."

the primary election, and shortly after her communications—in some cases less than an hour later—reporters felt they had sufficiently credible information to represent to others that DOJ might investigate Mr. Hayden. The reporters were the same ones for whom Ms. Rollins had previously served as a source either about USAO-MA activities or at Mr. Arroyo's request. And Ms. Rollins understood that Mr. Arroyo was keenly interested in generating reporting that Mr. Hayden was under federal investigation because that reporting would help Mr. Arroyo's campaign. Furthermore, in testimony to OSC, Ms. Rollins did not deny leaking the information before the primary election, but rather said that she could not recall whether she did so. The evidence shows that Ms. Rollins leaked information about an investigation of Mr. Hayden for the purpose of hurting his campaign.

4. *By leaking non-public DOJ information for the purpose of harming a candidate, Ms. Rollins violated the Hatch Act prohibition against using her official authority or influence to interfere with or affect an election.*

The Hatch Act prohibits Ms. Rollins from using her official authority or influence for the purpose of interfering with or affecting the results of an election.[44] An employee violates the use of official authority prohibition by engaging in political activity while acting in an official capacity. In *Special Counsel v. Malone*, the Merit Systems Protection Board held that an employee violated the prohibition when he "acted in his official capacity to further a partisan political campaign."[45]

OSC's interpretation of the use of official authority prohibition is further guided by the U.S. Supreme Court's decision in *U.S. Civil Service Commission v. National Association of Letter Carriers*, a case affirming the constitutionality of the Hatch Act.[46] In that case the Court noted that one of Congress's considerations in passing the Hatch Act was that:

> it is not only important that the Government and its employees in fact avoid practicing political justice, but it is also critical that they appear to the public to be avoiding it, if confidence in the system of representative Government is not to be eroded to a disastrous extent.[47]

Ms. Rollins's actions epitomize the type of "political justice" that Congress intended to prohibit. Ms. Rollins is the U.S. Attorney for the District of Massachusetts. Inherent in her

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[44] 5 U.S.C. § 7323(a)(1). The Hatch Act prohibitions apply only to partisan elections. *See* United Public Workers of America v. Mitchell, 330 U.S. 75, 100 (1947) ("It is only partisan political activity that is interdicted."). The election at issue here was inarguably partisan because the candidates were competing in a partisan primary election. *Cf.* 5 C.F.R. § 734.101 (defining a "nonpartisan election" as one in which none of the candidates is to be nominated as representing, for example, the Republican or Democratic party); *see also, e.g.*, Special Counsel v. Kane, 77 M.S.P.R. 530, 531 (1998) (finding the Hatch Act applied with respect to a partisan primary election).
[45] 84 M.S.P.R. 342, 363 (1999).
[46] 413 U.S. 548 (1973).
[47] *Id.* at 565.

position is the authority to speak on behalf of USAO-MA and, by extension, DOJ, regarding federal investigations and prosecutions in Massachusetts. The only reason that Ms. Rollins's disclosures about DOJ activities, including a potential investigation of Mr. Hayden, carried any weight was her authority as U.S. Attorney. Ms. Rollins used that authority to leak non-public DOJ information about a potential investigation of Mr. Hayden. Based upon the significant documentary evidence—a substantial portion of which comprises Ms. Rollins's own words as recorded in her electronic communications—and testimony that OSC received during its investigation, it is clear that she leaked the information for a political purpose, namely to sabotage Mr. Hayden's campaign. In so doing, she violated the Hatch Act prohibition against using her official authority or influence to interfere with or affect the results of an election.

OSC notes that most of Ms. Rollins's efforts took place before the September 6 primary and were directed toward both helping the candidacy of Mr. Arroyo and hurting the candidacy of Mr. Hayden. But her efforts against Mr. Hayden continued even after Mr. Arroyo was defeated in the primary and Mr. Hayden advanced to the general election. Just three days after the primary—and three days after telling Mr. Arroyo that Mr. Hayden would "regret the day he did this to you. Watch"—Ms. Rollins leaked pictures of her recusal memo to a reporter. It is no defense that Mr. Hayden was unopposed in the general election; the Hatch Act applies equally to both contested and uncontested elections,[48] and the evidence shows that Ms. Rollins was motivated by a desire to harm Mr. Hayden's candidacy.

It is also no defense that Ms. Rollins's attempts to generate a story about an investigation of Mr. Hayden prior to the September 6 primary election were unsuccessful. The only factors relevant in establishing a violation of the use of official authority prohibition are whether the employee used her official authority and whether her purpose in doing so was to interfere with or affect the result of an election. There is no requirement that the employee's attempt succeed. As stated in a recent Merit Systems Protection Board decision:

> the only relevant question as it concerns a Section 7323(a)(1) [use of official authority] violation is the "purpose" of the actor and use of official authority. Nowhere in the statute does it say the actor must be successful in affecting or interfering with an election, nor that the attempt actually ever causes someone to act in a way that would interfere or affect an election. To the contrary, Section 7323(a)(1) merely prohibits the use of official authority for the purpose of interfering with or affecting the results of an election, regardless of how successful the use of the authority actually is.[49]

[48] *See* Special Counsel v. DeWitt, 113 M.S.P.R. 458, 460 (2010) (finding that an employee violated the Hatch Act prohibition on being a candidate for partisan political office even though the employee ran unopposed); Special Counsel v. Johnson, 26 M.S.P.R. 560, 562 (1985) (same).
[49] Special Counsel v. DePaolo, MSPB Docket No. CB-1216-18-0016-T-1, at 23-24 (Sept. 13, 2019).

For the reasons stated above, OSC has determined that in leaking information to reporters Ms. Rollins used the power and influence of her position as U.S. Attorney to harm Mr. Hayden's campaign for Suffolk County DA. That is sufficient to establish that she violated the Hatch Act. It is of no consequence whether her actions ultimately affected the outcome of the election.

Ms. Rollins's violation is made worse by her knowledge of wrongdoing, which is apparent from her own words. In the September 9 exchange where she sent the *Herald* reporter pictures of her recusal memo she wrote "Off the record. Not attributed to me. Prefer you say source within DOJ with information who preferred to stay anonymous for fear of discipline or something like that. Also you CANNOT leak the document." The only reason a source would fear discipline is if it was wrong for the source to be disclosing information. Furthermore, when asked by the reporter if the reporter could quote from the document, Ms. Rollins wrote, "As long as you can keep confidential where you got it and will never release it if someone makes a public records request." And on September 11, after the *Herald* published an article quoting from the recusal memo, Ms. Rollins immediately messaged her staff and wrote "WTF!?! . . . How are they quoting things?"[50] These messages show that Ms. Rollins knew it was wrong to leak the memo and, at least in communications with her staff, that she had to feign outrage that it was made public.

In conclusion, Ms. Rollins supported Mr. Arroyo's candidacy and was opposed to Mr. Hayden's. She knew that Mr. Arroyo wanted a potential investigation of Mr. Hayden made public. She had regular communications with reporters from the *Globe* and the *Herald*, and in the three weeks from August 20 to September 9 she disclosed to reporters from both newspapers that DOJ was potentially going to investigate Mr. Hayden. Her credibility in making those disclosures derived from Ms. Rollins's authority as U.S. Attorney. And she made the disclosures for the purpose of harming Mr. Hayden's candidacy for Suffolk County DA, first in the Democratic primary and then in the ensuing general election. Accordingly, Ms. Rollins willfully violated the Hatch Act by using her official authority or influence for the purpose of interfering with or affecting the election for Suffolk County DA.

C. Ms. Rollins violated the Hatch Act when she attended a Democratic National Committee fundraiser in her official capacity and while using a government vehicle.

OSC's investigation established that Ms. Rollins attended a Democratic National Committee (DNC) fundraiser on July 14, 2022, in Andover, Massachusetts, in her official capacity as U.S. Attorney for the District of Massachusetts. She did so despite repeatedly being advised not to attend the fundraiser. Ms. Rollins attended the fundraiser while on duty and used a U.S. government vehicle to get to and from the event. She therefore violated the Hatch Act prohibitions against using her official authority or influence for the purpose of interfering with or affecting the results of an election and engaging in political activity while on duty and/or using a government vehicle.

[50] Ex. 8, at 2.

1. Ms. Rollins attended a DNC fundraiser in her official capacity. She also used a government vehicle to travel to and from the event.

On July 7, 2022, one of the hosts of the July 14 DNC fundraiser sent a U.S. Attorney's Office for the District of Massachusetts (USAO-MA) employee an invitation for Ms. Rollins to attend the DNC fundraiser in Andover.[51] The invitation read, "The Democratic Party . . . invite[s] you to a reception with Dr. Jill Biden in support of the Democratic Grassroots Victory Fund."[52] The Democratic Grassroots Victory Fund is "a joint fundraising committee authorized by the Democratic National Committee and the state Democratic parties in" the 50 states and the District of Columbia. The invitation stated that "[c]ontributions will be used in connection with federal elections."[53] The host asked for Ms. Rollins to arrive at the DNC fundraiser by 4 p.m. and noted that Dr. Biden would arrive at 4:45 p.m.[54]

Ms. Rollins was first told about the invitation to the DNC fundraiser during a meeting on Monday, July 11. In that meeting she was shown a copy of the fundraiser invitation and advised by a USAO-MA employee, who had already discussed the invitation with an ethics official, not to attend the fundraiser. Despite that advice, Ms. Rollins said that she wanted to go to the event. The employee then told her that, as an alternative, Ms. Rollins could meet with Dr. Biden, provided the meeting took place outside the fundraiser venue and Ms. Rollins did not attend the fundraiser. Less than two hours after that meeting the employee memorialized this advice in an email to a USAO-MA supervisor:

> I wanted to make sure you were brought up to speed on an invitation [Ms. Rollins] received to attend a fundraiser for Dr. Jill Biden with the DNC. I told [Ms. Rollins] today that she received the invitation, but we advised her not to attend. We suggested that if she really wanted to greet [Dr. Biden], that she could do so by walking the 10 minutes through the Secret Service barricade to say hi to [Dr. Biden] outside of the event. We told her that she should not go in. She agreed to this plan, and acknowledged that she should not go in. I asked [another USAO-MA employee] to check with [the General Counsel's Office of the Executive Office for United States Attorneys (EOUSA)] . . . to make sure this plan was ok.[55]

[51] Ex. 9, at 1. The employee who received the invitation was invited as well.
[52] *Id.* at 2.
[53] *Id.*
[54] *Id.* at 1.
[55] Ex. 10, at 1. Several emails provided to OSC, including the email at the top of Exhibit 10, reflect a time zone that is not the Eastern time zone. Thus, while the email at the top of Exhibit 10 shows that it was sent at 7:24 p.m., it was in fact sent at 3:24 p.m. Eastern time.

After the meeting where Ms. Rollins was advised not to attend the DNC fundraiser, USAO-MA sought advice from EOUSA about Ms. Rollins meeting Dr. Biden outside the fundraiser venue. The USAO-MA employee who communicated with EOUSA wrote that Ms. Rollins "wants to meet with Dr. Jill Biden outside the location of the event . . . . It would just be a brief meet-and-greet outdoors, and then [Ms. Rollins] would leave."[56] An EOUSA attorney responded and confirmed their understanding that Ms. Rollins "will not be attending the fundraiser, providing remarks of any kind, or discussing policy or legislation on July 14. We do not see an issue with [Ms. Rollins] simply meeting with the First Lady individually in a meet and greet type situation and then leaving after the meet and greet."[57]

Ms. Rollins received EOUSA's guidance. A USAO-MA employee both forwarded it to Ms. Rollins[58] and printed the guidance and discussed it with her in person. During that meeting the employee spoke with Ms. Rollins about the fact that the proposed meeting with Dr. Biden would need to be outside. And Ms. Rollins acknowledged to OSC that she received advice prior to the event that she should not attend the fundraiser. Specifically, she recalled being told "if you get there and the fundraiser has started, turn around and leave, or something like that."

On July 12, Ms. Rollins spoke with a DNC official about attending the DNC's event. During that conversation Ms. Rollins asked the DNC official to contact one of her subordinates to discuss the logistics of her attendance. That employee also spoke with the DNC official on July 12 and, according to the employee, the DNC official expressed surprise that Ms. Rollins was planning to attend and specifically mentioned the Hatch Act. The next day Ms. Rollins sent a text message to multiple USAO-MA employees:

> Because we changed [a USAO-MA event] to a zoom that is much smaller, I CAN GO TO THE DR JILL BIDEN EVENT!!! PLEASE MAKE SURE EVERYONE KNOWS THAT IS NOW A YES. [The DNC official] called me yesterday to confirm.[59]

After exchanging messages with the employees about her schedule, Ms. Rollins then wrote, "Speak to [a USAO-MA employee] – who told the DNC that I am going to the Biden event."[60]

On July 14 a USAO-MA employee drove Ms. Rollins in a government vehicle to the fundraiser venue in Andover.[61] She arrived at approximately 4:40 p.m., and while she was

[56] Ex. 11, at 2.
[57] *Id.* at 1.
[58] *Id.*
[59] Ex. 12, at 1.
[60] *Id.* at 5.
[61] Ms. Rollins participated in a virtual meeting while in transit between Andover and a later USAO-MA event. The USAO-MA employee drove Ms. Rollins to allow her to participate in that virtual meeting. The employee did not want or intend to go inside the DNC fundraiser, but once Ms. Rollins went inside the employee went with her in order to maintain situational awareness. While inside the employee took pictures of Ms. Rollins posing with other fundraiser attendees.

walking to the venue, a reporter asked her whether she was concerned that her presence at the event was a violation of the Hatch Act. Ms. Rollins responded "no" and continued walking. She then took a Covid-19 test outside the DNC fundraiser venue, waited several minutes for a negative result, and then, disregarding the Hatch Act advice she had received, went inside the DNC fundraiser.

Upon entering the fundraiser Ms. Rollins greeted other attendees and was offered food and a beverage. At one point she was escorted to a room where she took a picture with Dr. Biden. She then took pictures with other fundraiser attendees, including a U.S. Senator with whom Ms. Rollins had a longstanding personal relationship and at least one person who Ms. Rollins understood to be a host of the event. Ms. Rollins was at the DNC fundraiser until 5:01 p.m., at which point she and the USAO-MA employee who drove her to the event left to attend a USAO-MA event.

By her own account Ms. Rollins went to Andover in her official capacity. For example, Ms. Rollins said that "I was only invited because I'm the U.S. Attorney," "this was only offered to me in my official capacity," and that going to Andover "was not a personal dalliance for me." She also testified that the only reason the USAO-MA employee went to the event with Ms. Rollins was "for work," including to allow Ms. Rollins to participate in a virtual meeting while in transit from Andover to a later USAO-MA event. Thus, there is no dispute that Ms. Rollins went to Andover in her official capacity as U.S. Attorney.

2. *Ms. Rollins committed three separate violations of the Hatch Act by attending the DNC fundraiser in her official capacity—and therefore while on duty—and also by using a government vehicle to travel to and from the event.*

Three questions are relevant in assessing whether Ms. Rollins violated the Hatch Act while in Andover on July 14, 2022. First, did Ms. Rollins go to Andover in her official capacity? Second, did Ms. Rollins travel to and from Andover in a government vehicle? And third, while in Andover did Ms. Rollins attend the DNC fundraiser? The answer to each question is yes. Therefore, as further explained below, Ms. Rollins violated three provisions of the Hatch Act.

With respect to the first two questions, Ms. Rollins admits that she went to Andover in her official capacity and that she used a government vehicle to travel to and from the event. Her defense against the Hatch Act allegations relates entirely to the third question; she claims that she did not attend the DNC fundraiser but, instead, went to a community engagement event related to USAO-MA's Building Respect In Diverse Groups to Enhance Sensitivity

(BRIDGES) program.[62] But that assertion is wholly contradicted by the evidence—there simply was no BRIDGES event in Andover on July 14.[63]

Contrary to Ms. Rollins's unsupported claim that she attended a BRIDGES event in Andover, the evidence overwhelmingly shows that she knowingly attended the DNC fundraiser. Ms. Rollins told OSC that she understood Dr. Biden was "there for a fundraiser, not to meet me." And Ms. Rollins knew that she was meeting Dr. Biden at a DNC event; she spoke with a DNC official to confirm her attendance, had that DNC official further coordinate her attendance with a subordinate employee, and texted staff that a subordinate "told the DNC that I am going to the Biden event." By Ms. Rollins's own account, she went inside the venue at approximately 4:45 p.m., which was the same time as the fundraiser guest of honor, Dr. Biden, and forty-five minutes after she had been asked to arrive at the DNC fundraiser. Further, it is undisputed that while inside, Ms. Rollins, like the other attendees, was offered food and refreshments, took a picture with Dr. Biden, and conversed with other fundraiser attendees. Thus, it is clear that Ms. Rollins knowingly attended the DNC fundraiser, not a BRIDGES event.

Ms. Rollins's actions in Andover give rise to three Hatch Act violations. First, by attending the DNC fundraiser in her official capacity, Ms. Rollins violated 5 U.S.C. § 7323(a)(1) by attending a political event,[64] and therefore engaging in political activity, while acting in an official capacity. Second, because Ms. Rollins went to the DNC fundraiser in her official capacity she was necessarily also "on duty" for purposes of the Hatch Act,[65] and she therefore violated 5 U.S.C. § 7324(a)(1) by engaging in political activity while on duty. Third, because Ms. Rollins used a government vehicle to travel to and from the DNC fundraiser, she violated 5 U.S.C. § 7324(a)(4) by engaging in political activity while using a government vehicle.[66]

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[62] At various points in her testimony to OSC Ms. Rollins said that she understood the invitation "came through the BRIDGES program," that her attendance would be a "nice touch with BRIDGES," and that her meeting with Dr. Biden was "a BRIDGES-sponsored meeting" held "prior to the fundraiser."

[63] Ms. Rollins's own actions the day after the fundraiser rebut her claim that she attended a BRIDGES event. On July 15, Ms. Rollins reviewed and edited a response to DOJ's Office of Public Affairs in which she defended her conduct in Andover but did not mention a BRIDGES event. Rather, she merely described the hosts of the DNC fundraiser as having "a long standing history with our USAO through the BRIDGES program." Ms. Rollins made a similarly misleading public statement in response to a *Boston Herald* article about her attendance at the DNC fundraiser when she tweeted "It's almost as if the Herald didn't want to know I had approval to meet Dr. Biden & left early to speak at 2 community events last night." Rachael Rollins (@DARollins), Twitter (Jul. 15, 2022 8:28 AM), https://twitter.com/DARollins/status/1547921083336011776. But the approval that Ms. Rollins received was to meet Dr. Biden "individually in a meet and greet type situation" outside of the fundraiser. As thoroughly documented herein, she did not comply with that advice.

[64] There is no question that the DNC fundraiser was a political event. Not only was it hosted by the DNC, a national political party, but, per the invitation, the money raised was to be used by the DNC and its state-level affiliates "in connection with federal elections."

[65] The Hatch Act regulations define "on duty" to include those times when an employee is representing an agency of the United States Government in an official capacity. *See* 5 C.F.R. § 734.101.

[66] There is a limited exception to these prohibitions for certain Senate-confirmed presidential appointees who "determine[] policies to be pursued by the United States in relations with foreign powers or in the nationwide

Ms. Rollins's violations are aggravated by the clear advice she received, both orally and in writing, prior to attending the event. Ms. Rollins disputed the extent of that advice and denied that she was advised not to go inside the venue. However, her testimony is contradicted by the evidence. Among other things, Ms. Rollins claimed that the employee who informed her of the invitation and relevant restrictions on July 11 "never meets with me" and that she had no recollection of any such July 11 meeting. But an Outlook calendar entry shows that Ms. Rollins met with the employee on July 11, and the employee sent multiple emails immediately after the meeting documenting what occurred. Furthermore, the employee's testimony to OSC was detailed and consistent with both contemporaneous written accounts and the testimony of other witnesses. Thus, the substantial weight of the evidence—indeed, all the evidence except for Ms. Rollins's own testimony—shows that the July 11 meeting took place as described herein and that, in both that meeting and subsequent conversations, Ms. Rollins was repeatedly advised not to attend the fundraiser or go inside the venue. Considering the amount of information that Ms. Rollins received about the DNC fundraiser, one employee who spoke with Ms. Rollins about the event told OSC "I just don't know how she wouldn't know" not to go inside the venue. Ms. Rollins's claims to the contrary are not credible.

In testimony to OSC, Ms. Rollins appeared to blame her staff for what transpired in Andover. She told OSC that the invitation to the DNC fundraiser "was a thing that was brought to me [and] that I assumed it would only be brought to me if it had been cleared in every way, shape, and form that it had to be." USAO-MA, in fact, did identify potential Hatch Act concerns and addressed them by advising Ms. Rollins to meet with Dr. Biden outside the venue and not attend the fundraiser. Ms. Rollins had every opportunity to comply with that advice, including just before she went into the fundraiser when she was asked by a reporter whether her attendance at the event would violate the Hatch Act. The issue here is that Ms. Rollins ignored her staff's advice and did attend the fundraiser. Thus, any claim by Ms. Rollins that she acted in reliance upon her staff having cleared her attendance is specious.

The reason Ms. Rollins's staff told her it would be permissible to meet with Dr. Biden outside the fundraiser venue—and, for that matter, why they told her about the invitation at all—warrants mention. Multiple USAO-MA employees told OSC that under prior U.S. Attorneys,

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administration of Federal laws." 5 U.S.C. §7324(b)(2)(B)(ii). However, since the Hatch Act was first passed in 1939 the U.S. Department of Justice has maintained that U.S. Attorneys do not determine policies to be pursued in the nationwide administration of Federal laws and, therefore, that the exception does not apply to U.S. Attorneys. *See* Attorney General's Circular No. 3301 (Oct. 26, 1939) (U.S. Attorneys are not exempt from the Hatch Act because they do not determine policies to be pursued by the United States in the nationwide administration of federal laws); *see also* Memorandum from Frank Wozencraft, Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice, to Ramsey Clark, Deputy Attorney General, U.S. Department of Justice (June 15, 1966) (same). The Hatch Act training that Ms. Rollins received reflects this position. Moreover, even if Ms. Rollins were covered by the exception, it would not have applied in this specific instance because it only exempts those political activities "not paid for by money derived from the Treasury of the United States," 5 U.S.C. § 7324(b)(1), and Ms. Rollins never reimbursed the Treasury for the government-incurred costs of her attending the DNC fundraiser.

an invitation for the U.S. Attorney to attend a political party fundraiser would have been summarily denied without telling the U.S. Attorney. One employee said that declining the invitation should have been "easy" and that it was a "hard no." Another said that "in any world, in any district, under any other U.S. Attorney . . . there's no way we would have pitched it to a U.S. Attorney. We would have just said no." However, those employees also described how Ms. Rollins became frustrated upon learning that USAO-MA staff were declining invitations and speaking opportunities without first notifying her of those invitations and opportunities. One employee said that Ms. Rollins had "made it clear she doesn't want people making decisions for her," while others described her as getting "increasingly frustrated" and "very, very angry" when USAO-MA staff declined invitations without telling her. Thus, while there was a consensus among the involved USAO-MA employees that Ms. Rollins could not accept the invitation, they nevertheless felt they had to tell her about it.

Complicating matters, from the employees' perspective, was their perception that Ms. Rollins regularly pushed back when told that she could not do something because of ethics rules. One employee described discussing ethics-based restrictions with Ms. Rollins as a "frustrating process" in which Ms. Rollins "blamed the messenger," while another said she had to tell Ms. Rollins "we can't die on every single hill." An employee also told OSC that "normally, when ethics is uncomfortable we all move on. That doesn't work here." Employees then testified that they had to spend considerable time both planning how to tell Ms. Rollins that ethics rules prohibited a particular course of action and, because of the expected pushback, preparing potential alternatives.

Because USAO-MA employees felt they needed to tell Ms. Rollins about the invitation to the DNC fundraiser and they expected her to push back when being told that she could not accept the invitation, the employee who told Ms. Rollins of the invitation was prepared when Ms. Rollins said that she wanted to accept the invitation against USAO-MA's advice. It was only at that point that the employee suggested that Ms. Rollins could meet with Dr. Biden outside the fundraiser venue. And it was only a meeting under those conditions—individually and outside the fundraiser venue—that was approved by EOUSA. But rather than meet Dr. Biden under those conditions, Ms. Rollins attended the DNC fundraiser in violation of the Hatch Act.

IV. CONCLUSION

Ms. Rollins's violations of the Hatch Act were knowing and willful. Regarding the leak of non-public information about a potential investigation of Kevin Hayden, Ms. Rollins understood it was wrong to leak the information, and she knowingly engaged in that wrongful activity for a political purpose. Regarding her attendance at the DNC fundraiser, Ms. Rollins was specifically

advised on how to avoid violating the Hatch Act if she wanted to meet with Dr. Biden and she intentionally ignored that advice.

Ms. Rollins's violations were serious. In particular, her repeated efforts to leak non-public DOJ information for the purpose of harming a political candidate rank among the most flagrant violations of the Hatch Act that OSC has ever investigated. The leak was an extraordinary breach of public trust by a senior government official, which threatens to erode confidence in the integrity of federal law enforcement actions. And her decision to attend a political party fundraiser in her official capacity as U.S. Attorney is directly contrary to one of the central purposes of the Hatch Act—to avoid even the appearance that the federal government is being used to promote a political party or its candidates. Ms. Rollins's multiple knowing, willful, and serious violations unquestionably warrant disciplinary action.

By statute, "if the Special Counsel determines that disciplinary action should be taken" against a Senate-confirmed presidential appointee for violating the Hatch Act, then OSC's findings "shall be presented to the President for appropriate action."[67] Ms. Rollins is a Senate-confirmed presidential appointee, and OSC has determined that disciplinary action should be taken for her repeated abuse of her official authority as U.S. Attorney for political purposes in violation of the Hatch Act. Accordingly, OSC hereby submits this Report of Prohibited Political Activity to the President.

[67] *See* 5 U.S.C. § 1215(a)(1), (b).

EXHIBIT 1

Text messages between
Rachael Rollins and a *Boston Globe* reporter

Extraction Report - Apple iOS iTunes (Backup)

Cellebrite
www.cellebrite.com

Chats (1)

* These details are cross-referenced from this device's contacts

Native Messages (1)

+[redacted] (1)

#		Deleted
1	**Name:** [redacted] **Start Time:** 7/25/2022 5:04:42 PM(UTC-4) **Last Activity:** 9/21/2022 7:54:48 PM(UTC-4) **Number of attachments:** 1 **Source:** Native Messages **Account:** [redacted] **Body file:** chat-1.txt **Participants:** [redacted] ME* (owner) [redacted]	

From: [redacted]
To: [redacted] ME (owner)

Hi - It's [redacted] from the Globe. I tried to give you a call a bit ago. Was hoping to chat off record about Suffolk DA office and changes in Special Prosecution Unit. My number is [redacted]

Participant	Delivered	Read	Played
[redacted] ME		7/25/2022 5:05:40 PM(UTC-4)	

Status: Read

7/25/2022 5:04:42 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

OFF THE RECORD!!!!

Hey,

Here are the things Kevin undid in the first few weeks of his appointment to serve the remained of my elected term (or other failures):

1. Never had a meeting with me, or spoke to me about the office. Ever.

When I was nominated for US Attorney, I met with the 8 former living USAs for our District. Republicans, Democrats, assholes, friends - it didn't matter. I met when each of them individually for at least an hour. Met with [redacted] and [redacted] for 2.5 hours.

1. Fired [redacted] without ever meeting with him. We had several key Public Private Partnership that I had created and cultivated - private industry came to me due to my agenda and platform - that he jeaprodizes and/or lost because of his arrogance or ignorance, or both. NO EXIT INTERVIEW.

2. Fired [redacted] With Kevin firing [redacted] - one of the [redacted] in the office, both of these important projects died. NO EXIT INTERVIEW.

3. Demoted [redacted] Stupidest move ever. [redacted] is brilliant, dedicated, loyal, knows the office inside and out, and [redacted].

4. Demoted [redacted] who is responsible - with me - for OVER 500 YEARS OF WRONGFUL CONVICTIONS BEING OVERTURNED.

5. Ended the List of 15. Arguably what I am known for the most, he ended. And claims he want a case by case analysis - proving he doesn't know what he is talking about or anything about the List of 15. I wanted thing in writing so everyone got the same rules applied to them. Kevin is leaving everything to his ADAs, that no longer revive the culturally competent training I established. Or if he says they do, IT IS BECAUSE I ESTABLISHED THE TRAINING.

6. Ended the Discharge Integrity Team. We had 5 reports ready to produce before I left. He has not convened them since I because US Attorney.

7. He gets a complete pass for screwing up the Sex Offenser Board (whose SOLE mission is to document where sex offenders are) by losing over 1000 sex offenders, but every article about Ricardo always mentions [redacted]. He also made a horrible statement about criminal defense attorneys and the Kevin always believes victims. Ask Kevin about the victim [redacted] sexually assaulted on a plane. Does he believe her?

8. WHERE IS THE INVESTIGATION INTO THE T generally (for the complete shitshow that it is), and [redacted]??? Ask if the [redacted] was referred to us by the T. If it was, that makes it even worse that he isn't going forward.

9. [redacted] was an ADA in one of the cases that IRB was looking into. I had written [redacted] name into a footnote in a pleading and I think it was removed before we filed. I believe we assented to the Motion for a new trial. Or certainly we're going to.

Let me know if you need anything else…

Participant	Delivered	Read	Played
[redacted]	8/1/2022 10:35:28 AM(UTC-4)		

Status: Sent

8/1/2022 10:35:28 AM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Thank you. Very helpful

Participant	Delivered	Read	Played
[redacted] ME		8/1/2022 10:47:54 AM(UTC -4)	

Status: Read

8/1/2022 10:45:21 AM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Do you have a few minutes to chat tonight? I want to bounce a few things off you from DA Hayden's response to our questions.

Participant	Delivered	Read	Played
[redacted] ME		8/2/2022 6:37:17 PM(UTC-4)	

Status: Read

8/2/2022 6:12:01 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

Sure. I am at National Noght Out until about 8:30 pm. Can it wait until there?

Participant	Delivered	Read	Played
[redacted]	8/2/2022 6:37:49 PM(UTC-4)		

Status: Sent

8/2/2022 6:37:49 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

*then

Participant	Delivered	Read	Played
[redacted]	8/2/2022 6:37:58 PM(UTC-4)		

Status: Sent

8/2/2022 6:37:58 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Yes

Participant	Delivered	Read	Played
[redacted] ME		8/2/2022 6:38:39 PM(UTC -4)	

Status: Read

8/2/2022 6:38:31 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

Home! Are you up? Or should we talk tomorrow morning?

Participant	Delivered	Read	Played
[redacted]	8/2/2022 9:57:43 PM(UTC-4)		

Status: Sent

8/2/2022 9:57:42 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Let's talk tomorrow, if that's OK. I'm up early.

Participant	Delivered	Read	Played
[redacted] ME		8/2/2022 10:03:39 PM(UTC-4)	

Status: Read

8/2/2022 10:03:37 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

Participant	Delivered	Read	Played
[redacted]	8/2/2022 10:03:47 PM(UTC-4)		

Status: Sent

8/2/2022 10:03:47 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

I'm up and available when you have time to chat

Participant	Delivered	Read	Played
[redacted] ME		8/3/2022 6:31:11 AM(UTC-4)	

Status: Read

8/3/2022 5:59:41 AM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Hi —

I wanted to double check one thing in terms of our communication. As agreed, our discussion has been off the record. As I mentioned, I sent a note to [redacted] to ask for comment generally about the law enforcement investigations that initiated under you as DA and we're inherited by Hayden. [redacted] responded, " I believe you spoke with her?"

I haven't told anyone we spoke because it was off the record. I haven't responded to [redacted] and I want to make sure In not getting my lines crossed and violating confidences.

Thanks again,
[redacted]

Participant	Delivered	Read	Played
[redacted] ME		8/3/2022 10:06:33 PM(UTC-4)	

Status: Read

8/3/2022 9:56:29 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

I told [redacted] you and I spoke for a second and you were going to call [redacted] to officially ask me for a comment about something on the record.

So [redacted] does not know we have been speaking.

OFF THE RECORD, but if you can say sources close to the Rollins Administration???

As the elected DA, I had ZERO incentive to drag out investigations into corrupt police officers. No police endorsed me (aside from the T police Union) or contributed to my campaign. I would have been even more popular if I indicted police officers.

I always spoke openly and honestly when I saw a problem with the police and famously had screaming matches with both [redacted] and [redacted] on multiple occasions about corrupt officers like [redacted]. I pushed and pushed for my investigations to move. As elected DA, I had a Global pandemic resulting in the nearly 100% remote work schedule of my staff and nearly 100% shutdown of courts and grand juries, all while changing the culture of the office and fighting with everyone who wanted the status quo [redacted]

What incentive does Kevin have to charge any police officers? He is running for the seat he was given and nobody knows who he is. Nobody. Look who endorsed him - [redacted] Not a single Black or brown elected official has endorsed him. Not a single progressive organization local, state, or national, has endorsed him. Roslindale & West Roxbury Progressives endorsed Arroyo. Kevin lives in Roslindale. [redacted] and countless others are with Arroyo. The police are contributing to Kevin's campaign. He is [redacted], with a tan.

Bottom line, he never asked for a meeting or a briefing from me when he was appointed. That is poor leadership and male ego. I personally called and met with 7-8 of the previous US Attorney's after I was confirmed. I met with [redacted] and [redacted] after I won the primary. I spell with [redacted] after I took office as DA!!!

Kevin fired and severely demoted executive staff within his first week of being appointed to serve out my final year. And never met with them or requested an exit interview before they left. That is cowardice and poor leadership. I fired people myself. And they had an exit interview to make sure cases and matters where appropriately transferred.

The [redacted] perjury matter is the [redacted] case. Kevin had the entire [redacted] file because [redacted] (who Kevin humiliated and demoted) handled the matter. Kevin could have requested a transcript of the hearing [redacted] had where [redacted] said on the record that [redacted] found [redacted] had committed perjury. This is a one count charge. What is the hold up? There is no investigation. All the work is done.

You don't get to say I have no information or documents when you intentionally spoke to no one (me or [redacted]) and fired anyone and everyone that has any information.

Ask the date that [redacted] left. Don't fall for the bullshit that [redacted] was looking earlier. I was talked about as US Attorney as early as January 2021. I was nominated July 26, 2021 and confirmed by the US Senate December 8, 2022. [redacted] was there when I left. And [redacted] didn't just leave, [redacted] whole unit did. [redacted] was getting a lot of pushback from BPD. It was a hard job even with ME as the DA. It is even harder when you have someone in the position that is blindly pro-law enforcement.

Let me know if you need anything else. Don't let them fool you with the okie doke…

Good luck.

Participant	Delivered	Read	Played
[redacted]	8/3/2022 10:44:09 PM(UTC-4)		

Status: Sent

8/3/2022 10:44:09 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Hi —

You had a good weekend. We are working on a follow up to our story that ran about the [redacted]. Let me know if you are hearing anything or have anything to say about it.

Thanks again,

[redacted]

Participant	Delivered	Read	Played
[redacted] ME		8/8/2022 12:07:03 PM(UTC-4)	

Status: Read

8/8/2022 11:35:24 AM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

OFF THE RECORD

The story was phenomenal. [redacted] are outraged.

Funny that conservative zealots love telling me I should prosecute every arrest and charge the police bring to me, but when they take the EXTRAORDINARY step of reporting their own, we don't believe them or do anything.

Great job.

Participant	Delivered	Read	Played
[redacted]	8/8/2022 12:09:07 PM(UTC-4)		

Status: Sent

8/8/2022 12:09:03 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Thank you. We are still digging if you hear anything

Participant	Delivered	Read	Played
[redacted] ME		8/8/2022 12:11:17 PM(UTC-4)	

Status: Read

8/8/2022 12:11:10 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

You could ask for the Grand Jury schedule. The GJ Coordonator - [redacted]- keeps a schedule in 1/2 hour increments about who has requested and has scheduled GJ time.

You could get the name of the ADA handling the case now and make a public records request for all emails to and from that person regarding this case. Also ask for all correspondence [redacted] to the office regarding the case. And all correspondence regarding this matter. Up to am including today. Emails, texts, vm, calls, WhatsApp, etc.

Remember, THE POLICE BROUGHT THIS TO US! ABOUT [redacted] They had done a thorough investigation and absolutely believed that [redacted] should be prosecuted if they took this extraordinary step.

How quickly did the office authorize the search warrants for the phones after it was first referred to us?

This reaction is ABSOLUTELY in response to your article. 100%

Participant	Delivered	Read	Played
[redacted]	8/10/2022 8:13:49 PM(UTC-4)		

Status: Sent

8/10/2022 8:13:49 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

Re: GJ schedule, you can see when the times got requested.

Ir took LESS THAN 1 week from reading your article for them to miraculously have enough to present to the grand jury. DOESN'T THAT PROVE YOU RIGHT? But he is claiming they have been looking into this for 8+ months beyond what my administration already found.

Participant	Delivered	Read	Played
[redacted]	8/10/2022 8:22:00 PM(UTC-4)		

Status: Sent

8/10/2022 8:22:00 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Thank you. Will do.

Participant	Delivered	Read	Played
[redacted] ME		8/11/2022 9:15:54 AM(UTC-4)	

Status: Read

8/11/2022 9:14:45 AM(UTC-4)

EXHIBIT 2

Text messages between
Rachael Rollins and a *Boston Herald* reporter

[redacted]

[redacted]

From: [redacted] ME (owner)
To: [redacted]

Quick call?

Participant	Delivered	Read	Played
[redacted]	8/31/2022 2:15:10 PM(UTC-4)		

Status: Sent

8/31/2022 2:15:10 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

I'm sitting in the middle of abject chaos in city council chambers

Participant	Delivered	Read	Played
[redacted] ME		8/31/2022 2:15:32 PM(UTC-4)	

Status: Read

8/31/2022 2:15:28 PM(UTC-4)

From: [redacted]
To: [redacted] (owner)

Got time in a bit?

Participant	Delivered	Read	Played
[redacted] ME		8/31/2022 2:15:47 PM(UTC-4)	

Status: Read

8/31/2022 2:15:47 PM(UTC-4)

From: [redacted] (owner)
To: [redacted]

Ha! Call after. All off the record…

Participant	Delivered	Read	Played
[redacted]	8/31/2022 2:16:07 PM(UTC-4)		

Status: Sent

8/31/2022 2:16:06 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Yes for sure. Thanks

Participant	Delivered	Read	Played
[redacted] ME		8/31/2022 2:18:06 PM(UTC-4)	

Status: Read

8/31/2022 2:16:16 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

Quick call?

Participant	Delivered	Read	Played
[redacted]	9/1/2022 9:45:32 PM(UTC-4)		

Status: Sent

9/1/2022 9:45:32 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Yes — give me a shout whenever! Sorry for not calling yesterday

Participant	Delivered	Read	Played
[redacted] ME		9/1/2022 10:10:28 PM(UTC-4)	

Status: Read

9/1/2022 10:01:38 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Got time for a quick call today?

Participant	Delivered	Read	Played
[redacted] ME		9/9/2022 2:34:55 PM(UTC -4)	

Status: Read

9/9/2022 1:17:33 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Hiya. You able to send that?

Participant	Delivered	Read	Played
[redacted] ME		9/9/2022 5:56:43 PM(UTC -4)	

Status: Read

9/9/2022 5:56:40 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

Off the record. Not attributed to me. Prefer you say source within DOJ with information who preferred to stay anonymous for fear of discipline or something like that.

Also you CANNOT leak the document.

Participant	Delivered	Read	Played
[redacted]	9/9/2022 6:05:19 PM(UTC-4)		

Status: Sent

9/9/2022 6:05:18 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

Would be even better if you could say likely not handled by Rachael or the District of Mass so it may be sent to New England USA office nearby.

Attachments:

Title: 68445376780__D8A5CE51-751B-41FF-B5F9-AA2BD16C6FD1.HEIC
Size: 1654537

[redacted]

Title: 68445390541__BF772117-BB7E-4A0C-B71B-EEBB1A235A65.HEIC
Size: 2958551

[redacted]

Participant	Delivered	Read	Played
[redacted]	9/9/2022 6:07:20 PM(UTC-4)		

Status: Sent

9/9/2022 6:07:17 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Thank you very much. Is it ok if I quote directly from this "document obtained by the herald"?

Participant	Delivered	Read	Played
[redacted] ME		9/9/2022 6:11:57 PM(UTC-4)	

Status: Read

9/9/2022 6:11:46 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

As long as you can keep confidential where you got it and will never release it if someone makes a public records request. First paragraph on the second page gives you what you need. Says DA [redacted].

Participant	Delivered	Read	Played
[redacted]	9/9/2022 6:14:23 PM(UTC-4)		

Status: Sent

9/9/2022 6:14:22 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

If not, please no.

Participant	Delivered	Read	Played
[redacted]	9/9/2022 6:14:32 PM(UTC-4)		

Status: Sent

9/9/2022 6:14:32 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Absolutely. No one needs to know where this came from, and no one can records request the newspaper

Participant	Delivered	Read	Played
[redacted] ME		9/9/2022 6:16:22 PM(UTC-4)	

Status: Read

9/9/2022 6:16:07 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

Participant	Delivered	Read	Played
[redacted]	9/9/2022 6:16:32 PM(UTC-4)		

Status: Sent

9/9/2022 6:16:32 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Exactly, I'll be looking just to say document says prosecution of DA [redacted]

Participant	Delivered	Read	Played
[redacted] ME		9/9/2022 6:16:40 PM(UTC-4)	

Status: Read

9/9/2022 6:16:40 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

Probably better to say investigating and possible prosecution.

Participant	Delivered	Read	Played
[redacted]	9/9/2022 6:17:11 PM(UTC-4)		

Status: Sent

9/9/2022 6:17:11 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Yes exactly that's what I mean to write

Participant	Delivered	Read	Played
[redacted] ME		9/9/2022 6:26:36 PM(UTC-4)	

Status: Read

9/9/2022 6:18:23 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

What is the date that memo was issued?

Participant	Delivered	Read	Played
[redacted] ME		9/11/2022 3:46:30 PM(UTC-4)	

Status: Read

9/11/2022 3:43:19 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

9/1/22

Participant	Delivered	Read	Played
[redacted]	9/11/2022 4:12:23 PM(UTC-4)		

Status: Sent

9/11/2022 4:12:21 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Thanks. Do you know offhand when it was requested?

Participant	Delivered	Read	Played
[redacted] ME		9/11/2022 4:13:59 PM(UTC-4)	

Status: Read

9/11/2022 4:13:53 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

OFF THE RECORD

Immediately after I read the first globe article. I reached out to DOJ.

Then I received a letter from a law professor demanding that I conduct an investigation into Kevin Hayden and [redacted].

I think DOJ was fearful of weighing in and impacting the election. And of course, it would have and did.

Participant	Delivered	Read	Played
[redacted]	9/11/2022 4:16:54 PM(UTC-4)		

Status: Sent

9/11/2022 4:16:53 PM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Gotcha. Thanks

Participant	Delivered	Read	Played
[redacted] ME		9/11/2022 5:35:20 PM(UTC-4)	

Status: Read

9/11/2022 4:44:16 PM(UTC-4)

[redacted]

MEMORANDUM FOR: [redacted]

Rachael Rollins
United States Attorney
District of Massachusetts

[redacted]

THROUGH: [redacted]

[redacted]

FROM: [redacted]

RE: Office-Wide Recusal of the District of Massachusetts from the investigation and possible prosecution of Suffolk County, Massachusetts District Attorney and [redacted] (GCO File No. REC-22-4773)

THIS IS FORMAL NOTICE that [redacted] has approved the recusal of the entire United States Attorney's Office for the District

THIS IS FORMAL NOTICE that [redacted] has approved the recusal of the entire United States Attorney's Office for the District of Massachusetts from the investigation and possible prosecution of Suffolk County, Massachusetts District Attorney [redacted]. The [redacted] authorized this recusal in accordance with Justice Manual 3-1.140 based upon existing conflicts of interest or the appearance of conflicts of interest pertaining to the matter.

The Deputy Attorney General, who is authorized to appoint Special Attorneys pursuant to 28 U.S.C. § 515 and 28 C.F.R. § 0.15, has delegated that authority to [redacted] has assigned this matter to the United States Attorney's Office for the [redacted] and, pursuant to 28 U.S.C. § 515(a), has directed and authorized [redacted] successor to conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before magistrate judges, which the United States Attorney for the District of Massachusetts is authorized by law to conduct regarding this matter.

Each office should communicate directly with the other concerning transfer of information related to this matter. The point of contact for the District of Massachusetts is [redacted] who can be reached at [redacted] and the point of contact for the District of [redacted] who can be reached at [redacted].

All Assistant United States Attorneys subsequently assigned to this matter must be appointed as Special Attorneys in order to appear on behalf of the government in the District of Massachusetts. Please contact [redacted] EOUSA Personnel Staff, Operations Division, at [redacted] to obtain the appointment.

Any Special Attorney assigned the matter or case should sign any pleadings or documents using the signature block of the [redacted], with the addition of the words "Acting Under Authority Conferred by 28 U.S.C. § 515" under the Special Attorney's name.

In the event that the [redacted] wants to use AUSAs from the District of Massachusetts to assist in this matter, it must submit a request to General Counsel's Office, EOUSA, that includes (1) a detailed justification of the need for the use of an AUSA, and (2) a detailed statement of the role the AUSA would play. The [redacted] retains the authority to approve / disapprove any such request.

EXHIBIT 3

Text messages between
Rachael Rollins and a *Boston Globe* reporter

From: [redacted]
To: [redacted] ME (owner)

Hi --

I have a letter [redacted] sent you earlier this week about the handling of the [redacted] case. [redacted] was calling for you to launch an investigation. I'll reach out to [redacted], but just curious if you're going to.

Thanks, [redacted]

Participant	Delivered	Read	Played
[redacted] ME		8/19/2022 12:09:56 PM(UTC-4)	

Status: Read

8/19/2022 12:01:12 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

Hey,

I think we may be issuing a brief statement about that next week. I will let you know.

On a separate note, [redacted] defended violent or corrupt police, [redacted] calls defense atty and says no interest in pursuing [redacted] case, ENTIRE Special Prosecution Team leaves (who handles all of the police corruption cases), THE ENTIRE TEAM LEAVES, they do NOT replace anyone in that dedicated, important Unit until you start sniffing around, the [redacted] they put on the [redacted] case, I REPRIMANDED. And had to send a letter to CPCS apologizing for [redacted] troubling and likely racist behavior against a CPCS attorney.

THAT IS WHO THEY OUT ON THE [redacted] CASE.

KEEP DIGGING. As for a letter sent as a result of the ADA on the [redacted] cases sloppy, privilegdge, culturally incompetent behavior. Multiple meetings about it, removed [redacted] from that case, and I personally wrote a letter of apology.

Participant	Delivered	Read	Played
[redacted]	8/20/2022 2:43:13 PM(UTC-4)		

Status: Sent

8/20/2022 2:43:11 PM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

*PUT

Participant	Delivered	Read	Played
[redacted]	8/20/2022 2:43:48 PM(UTC-4)		

Status: Sent

8/20/2022 2:43:48 PM(UTC-4)

EXHIBIT 4

Twitter message from a
***Boston Herald* reporter to the law professor**

From: [redacted] (via Twitter)" <notify@twitter.com>
Date: September 2, 2022 at 8:40:15 PM EDT
Subject: [redacted]**) has sent you a Direct Message on Twitter!**

[redacted] sent you a Direct Message.

Hi [redacted], it's [redacted] from the Herald. I understand you reached out to the DOJ about the Hayden [redacted] issue, and I've heard there might be some movement on that. Would you be able to give me a call on Saturday (tomorrow)? Number is [redacted]. Thanks [redacted]

[redacted]

[redacted]

EXHIBIT 5

Emails between *Boston Herald* reporters and the Suffolk County District Attorney's Office

[redacted]

From: [redacted] <[redacted]@bostonherald.com>
Sent: Saturday, September 3, 2022 1:29 PM
To: [redacted] (SUF) <[redacted]@mass.gov>
Subject: Re: Suffolk DA investigation

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Got it, thanks.

On Sat, Sep 3, 2022 at 12:46 PM [redacted] (SUF) <[redacted]@state.ma.us> wrote:

Hi [redacted] As we discussed, the statement that we decided not to prosecute in this case is false. No such decision has ever been made. The investigation into these [redacted] has always been open and active and we have announced that we are moving into the grand jury phase. As I mentioned, I suggest you vet your sources thoroughly because this has the ring of campaign season silliness to me.

Sent from my iPhone

> On Sep 3, 2022, at 12:21 PM, [redacted]@bostonherald.com> wrote:
>
> CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.
>
> Hi [redacted]
>
> This is [redacted] a reporter with the Boston Herald. I'm following up on information that there will be an investigation into the Suffolk District Attorney's office over the DA's decision not to prosecute [redacted]
>
> I was looking for a response from the DA's office regarding the investigation, which involves a claim that [redacted] attorneys, a donor to Kevin Hayden, prompted the DA not to prosecute.
>
> Thanks,
> [redacted]

[redacted]

From [redacted]@bostonherald.com>
Sent: Sunday, September 11, 2022 6:17 PM
To: [redacted]@mass.gov>
Subject: Re: Herald story -- federal investigation

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Not entirely, though I assume you're looking at election timing/the Globe story

On Sun, Sep 11, 2022 at 6:16 PM [redacted] (SUF) <[redacted]@state.ma.us> wrote:

Do you understand why I'm curious about it right?

Sent from my iPhone

On Sep 11, 2022, at 6:11 PM, [redacted]@bostonherald.com> wrote:

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

No, I haven't got that

On Sun, Sep 11, 2022 at 6:10 PM [redacted] (SUF) [redacted]@state.ma.us> wrote:

Yes. Did you find out when the recusal request was made?

Sent from my iPhone

On Sep 11, 2022, at 6:07 PM, [redacted]@bostonherald.com> wrote:

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Shooting for a 7 or so deadline to finish the story — do you think you'll have comment by then?

On Sun, Sep 11, 2022 at 4:13 PM [redacted]@bostonherald.com> wrote:

Correction from me on timing: memo issued sept 1

On Sun, Sep 11, 2022 at 4:05 PM [redacted]@bostonherald.com> wrote:

Thank you — appreciate it

On Sun, Sep 11, 2022 at 4:05 PM [redacted](SUF) [redacted]@state.ma.us> wrote:

Thanks. The timing is interesting. I'll get you a quote though not sure what we're going to say yet.

Sent from my iPhone

On Sep 11, 2022, at 3:54 PM, [redacted] [redacted]@bostonherald.com> wrote:

I was told memo issued this past week. I don't know when requested, but I'm seeking that info.

On Sun, Sep 11, 2022 at 3:46 PM [redacted](SUF) [redacted]@state.ma.us> wrote:

Also do we know when the recusal was requested?

Sent from my iPhone

On Sep 11, 2022, at 3:24 PM [redacted] [redacted]@bostonherald.com> wrote:

Yes. The top line is specifically about the recusal for a potential review of the issue. Not "they are under federal investigation," fyi

On Sun, Sep 11, 2022 at 3:22 PM [redacted] (SUF) [redacted]@state.ma.us> wrote:

Are you writing for tomorrow?

Sent from my iPhone

On Sep 11, 2022, at 11:38 AM, [redacted]@bostonherald.com> wrote:

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Finally got more info: Central DOJ has approved a recusal of Rollins' office "from the investigation and possible prosecution of Suffolk County, Massachusetts District Attorney [redacted] per a memo obtained by the Herald.

The quote: "THIS IS FORMAL NOTICE that [redacted] has approved the recusal of the entire United States Attorney's Office for the District of Massachusetts from the investigation and possible prosecution of Suffolk County, Massachusetts District Attorney [redacted]

Would either Kevin or [redacted] want to comment on this? Obviously, I'll make it clear that investigations often don't lead to charges, that this isn't

evidence of wrongdoing or illegal action, etc.

On Fri, Sep 9, 2022 at 4:42 PM [redacted] (SUF) [redacted]@state.ma.us> wrote:

As I said to [redacted] I'd make sure your source is very solid and provides some evidence to back their claims. This seems very fishy to me.

Sent from my iPhone

On Sep 9, 2022, at 3:27 PM, [redacted] (SUF) [redacted]@mass.gov > wrote:

Also if you could find out what federal crime is at issue. It seems to me that this is more of an attempt to get a negative story than a true move toward investigation. This is an odd way for the feds to work.

From: [redacted] [redacted]@bostonherald.com>

Sent: Friday, September 9, 2022 3:25 PM
To: [redacted] (SUF) [redacted]@mass.gov>
Subject: Re: Herald story -- federal investigation

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Let me clarify and get back to you. But "moving toward investigating" the allegations in the Globe piece is most likely the most accurate way of putting it.

On Fri, Sep 9, 2022 at 3:22 PM [redacted] (SUF) [redacted]@state.ma.us> wrote:

So according to this source they're "looking into" investigating? Isn't that a bit wishy-washy? What

are they going to investigate? T he case has always been open and we've indicated we're soon to begin the grand jury phase. We've received no indication of anything regarding any possible investigation. This just seems strange to me.

From: [redacted]
[redacted]
[redacted]
@bostonherald.com>
Sent: Friday, September 9, 2022 3:17 PM
To: [redacted] SUF)
[redacted]
[redacted]@mass.gov>
Subject: Herald story -- federal investigation

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hey [redacted]

According to a federal law enforcement source, the DOJ is looking into investigating the SCDAO around the [redacted]

I'm getting more specifics later today, but I wanted to put this on your radar before it got too late on Friday so you'd have the chance to respond. I believe one of my coworkers put this to you last weekend for a story we ultimately decided to hold — I'm essentially asking about the same thing.

Is there anything the DA wants to say about this?

Thanks,

[redacted]

--

[redacted]

Reporter | The Boston Herald

[redacted]

--

[redacted]

Reporter | The Boston Herald

[redacted]

--

[redacted]

Reporter | The Boston Herald

[redacted]

--

[redacted]

Reporter | The Boston Herald

[redacted]

--

[redacted]

Reporter | The Boston Herald

[redacted]

--

[redacted]

Reporter | The Boston Herald

[redacted]

--

[redacted]

Reporter | The Boston Herald
[redacted]

--

[redacted]
Reporter | The Boston Herald
[redacted]

--

[redacted]
Reporter | The Boston Herald
[redacted]

EXHIBIT 6

Text messages between
Rachael Rollins and a *Boston Herald* reporter

From: [redacted] ME (owner)
To: [redacted]

DISCLOSURE CANNOT BE ATTRIBUTED TO ME

Participant	Delivered	Read	Played
[redacted]	5/17/2022 4:15:21 AM(UTC-4)		

Status: Sent

5/17/2022 4:15:18 AM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

Attachments:

Title: IMG_6700.HEIC
Size: 2957023

[redacted]

Participant	Delivered	Read	Played
[redacted]	5/17/2022 4:17:01 AM(UTC-4)		

Status: Sent

5/17/2022 4:16:58 AM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

Attachments:

Title: IMG_6701.HEIC
Size: 3107235

[redacted]

Participant	Delivered	Read	Played
[redacted]	5/17/2022 4:17:10 AM(UTC-4)		

Status: Sent

5/17/2022 4:17:08 AM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Oh interesting, thank you. Can this be a "letter obtained by the Herald"

Participant	Delivered	Read	Played
[redacted] ME		5/17/2022 11:01:42 AM(UTC-4)	

Status: Read

5/17/2022 10:50:39 AM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

Absolutely. Don't say I never gave you anything.

Participant	Delivered	Read	Played
[redacted]	5/17/2022 11:02:05 AM(UTC-4)		

Status: Sent

5/17/2022 11:02:03 AM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Oh I would never say that!

Participant	Delivered	Read	Played
[redacted] ME		5/17/2022 11:32:32 AM(UTC-4)	

Status: Read

5/17/2022 11:32:10 AM(UTC-4)

[redacted]

[redacted]

U.S. Department of Justice

Rachael S. Rollins
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

May 12, 2022

VIA CERTIFIED MAIL AND EMAIL

The Honorable [redacted]
Mayor [redacted]
City Hall
[redacted]

Re: Investigation under the Americans with Disabilities Act regarding [redacted]

Dear Mayor [redacted]

I am writing to inform you that the U.S. Attorney's Office for the District of Massachusetts is initiating an investigation of the [redacted] for compliance with the requirements of Title II of the Americans with Disabilities Act of 1990 (ADA).[1] Among other things, the ADA prohibits discrimination against individuals with disabilities, including individuals with substance use disorder.

Pursuant to our authority under the ADA, we are investigating the [redacted] various efforts regarding [redacted] This includes, but is not limited to,

[redacted]

[1] *See* 42 U.S.C. §§ 12131-12134, and its implementing regulations, 28 C.F.R. Part 35. The text of the ADA, the Department of Justice's regulations, and many technical assistance publications can also be accessed at www.ADA.gov.

This investigation is at a preliminary stage, and I believe the interests of both the public and the [redacted] will best be served by [redacted] full cooperation in providing our office with complete and accurate information in a timely manner. Members of my Civil Rights Unit, who are copied below, have prepared the enclosed Request for Information. This request falls within DOJ's federal law enforcement authority. Such authority creates exceptions to statutes that may otherwise limit disclosure of private information.

My office has attempted to limit the areas of inquiry to expedite the initial phase of this investigation, and we are willing to work with you and your team to minimize the burdens associated with providing this information to the extent possible.

In addition to providing us with the requested information within thirty (30) calendar days of the date of this letter, I invite you to provide us with any other information that you believe is relevant to our inquiry. Once my team reviews the information provided in response to this request, they will contact you to discuss any additional information, documents, or interviews with [redacted] employees, agents, or officials that will be useful for a full understanding of the issues.

Finally, please consider this correspondence notice that [redacted] must maintain any and all records, documents, files, texts, messages, or tapes that could be relevant to this investigation in their current form whether or not they are specifically called for in the requests below. To the extent that such records are contained in a computer system, computer files should not be altered or destroyed pending completion of our investigation. An identical request is set for cellphone correspondence or direct messages through various social media platforms or messaging apps. If this matter were to ever eventually move to formal litigation, we could request an adverse inference regarding any destroyed, altered or not properly maintained records.

Please be assured that my office is committed to a full and fair investigation and that there will be an opportunity for discussion of these important issues before any final decisions are made. I trust that the [redacted] shares our interest in a fair, complete, and timely investigation of these issues, and I appreciate your cooperation in this regard.

If you have questions, please contact [redacted] Chief of the Civil Rights Unit at [redacted] or [redacted] or [redacted] at [redacted] or [redacted]

Sincerely,

[redacted]

RACHAEL S. ROLLINS
United States Attorney

Cc: [redacted], Chief, Civil Rights Unit
[redacted] Assistant U.S. Attorney
[redacted] Special Assistant U.S. Attorney

EXHIBIT 7

Text messages between
Rachael Rollins and a *Boston Globe* employee

From: [redacted]
To: [redacted] ME (owner)

Sure

Participant	Delivered	Read	Played
[redacted] ME		6/3/2022 11:28:37 AM(UTC -4)	

Status: Read

6/3/2022 11:15:28 AM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

Confidential. Off the Record. Not attributed to me.

Thanks

Participant	Delivered	Read	Played
[redacted]	6/3/2022 11:39:16 AM(UTC-4)		

Status: Sent

6/3/2022 11:39:14 AM(UTC-4)

From: [redacted] ME (owner)
To: [redacted]

Attachments:

Title: IMG_8960.HEIC
Size: 3126505

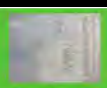
[redacted]

Title: IMG_8961.HEIC
Size: 3652321

[redacted]

Title: IMG_8962.HEIC
Size: 3355590

[redacted]



Title: IMG_8963.HEIC
Size: 3059002

[redacted]

Participant	Delivered	Read	Played
[redacted]	6/3/2022 11:40:24 AM(UTC-4)		

Status: Sent

6/3/2022 11:40:23 AM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Got it. Thanks

Participant	Delivered	Read	Played
[redacted] ME		6/3/2022 11:42:52 AM(UTC-4)	

Status: Read

6/3/2022 11:42:45 AM(UTC-4)

From: [redacted]
To: [redacted] ME (owner)

Great tip!

Participant	Delivered	Read	Played
[redacted] ME		6/3/2022 9:34:56 PM(UTC -4)	

Status: Read

6/3/2022 8:54:12 PM(UTC-4)

From: [redacted]
To: + [redacted] ME (owner)

https://www.bostonglobe.com/2022/06/03/metro/us-attorney-rachael-rollins-open-probe-racism-everett-city-government/

Attachments:

Title: 6E12BE70-D9A9-4020-9179-CA82E7903239.pluginPayloadAttachment
Size: 4467

[redacted]

Title: 37C76274-528D-48A9-8B4A-4DC57DC71302.pluginPayloadAttachment
Size: 17098

[redacted]

Participant	Delivered	Read	Played
[redacted] ME		6/3/2022 9:34:56 PM(UTC-4)	

Status: Read

6/3/2022 8:54:14 PM(UTC-4)

From: + [redacted] ME (owner)
To: [redacted]

You know I got you

Participant	Delivered	Read	Played
[redacted]	6/3/2022 9:35:07 PM(UTC-4)		

Status: Sent

6/3/2022 9:35:06 PM(UTC-4)

U.S. Department of Justice

Rachael S. Rollins
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

June 2, 2022

BY EMAIL AND CERTIFIED MAIL

Mayor [redacted]
[redacted]

Re: Notice of Title VII Inquiry and Request for Information

Mayor [redacted]

There have been multiple reports of racist behavior and language, as well as other inappropriate actions engaged in by government officials in [redacted] As you know, these allegations include:

[redacted]

The First Amendment to the U.S. Constitution protects free speech. People have the right, however, to be free of racial discrimination and/or sexual harassment by those in city government, whether they are elected, appointed, or employed. The employees and residents of [redacted] deserve no less.

[redacted]

[redacted]

The U.S. Attorney's Office is charged with enforcing federal civil rights laws that protect employees and job applicants from discrimination, including harassment, on the basis of race, national origin, and sex, among other protected characteristics, pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. As the top federal law enforcement officer in the Commonwealth, the United States Attorney has a duty and responsibility to enforce civil rights laws.

[redacted]

For the reasons stated above, we now formally request that you produce the following information:

1. A copy of all policies, guidelines, and procedures that apply to [redacted] elected or appointed officials, or employees regarding discrimination, harassment, hostile environment, and retaliation on the basis of race, national origin, and/or sex, including the date of adoption and the most recent revision, if any, to each document. Please include a description of [redacted] process for investigating and resolving complaints of discrimination, harassment, hostile environment, or retaliation.

2. A spreadsheet listing all complaints received by [redacted] since January 1, 2018 regarding discrimination, harassment, hostile environment, or retaliation on the basis of race, national origin, and/or sex by an elected or appointed official, or employee, including

[redacted]

sexual harassment. Please include complaints received in any form, including but not limited to written complaints, verbal complaints, complaints sent via email, or posted on [redacted] websites, and complaints filed with any outside agency, entity, or court. This request includes complaints regarding incidents that [redacted] later determined were unsubstantiated or unfounded. For each complaint received, please provide the following information:

a. The date and location of each alleged incident;
b. A brief description of each alleged incident;
c. For each alleged target of discrimination, harassment, hostile environment, or retaliation and each alleged offender: each individual's name, title, and contact information; and
d. A description of [redacted] response to each alleged incident, including whether or not any disciplinary action was taken and specifically what discipline was imposed.

3. Copies of any and all text messages, emails, social media postings, audio or video recordings, voicemails, direct messages on any platform (including, but not limited to, WhatsApp or Signal), or other communications since January 1, 2018 between or among [redacted] elected or appointed officials, or employees in [redacted] possession about which [redacted] has received complaints of discrimination, harassment, hostile environment, or retaliation on the basis of race, national origin, and/or sex, including but not limited to the following:

a. A Zoom recording of allegedly racist statements sent to [redacted] in March 2022; and
b. Memes containing racist slurs that [redacted] sent to [redacted] staff in March 2022.

4. A spreadsheet listing all of [redacted] elected and appointed officials, and city employees from January 1, 2018, to the present by name, age, race, national origin, sex, and title/position. For the appointed and city employees, please also indicate any familial relationship (through blood or marriage) to [redacted]

5. A copy of each of your filed EEO4 reports from 2016 to present.

Please consider this correspondence notice that the [redacted] must maintain any and all records, documents, files, recordings, or tapes that could be relevant to this inquiry in their current form whether or not they are specifically called for in this information request. To the extent that such records are contained in a computer system, computer files should not be altered or destroyed pending completion of our inquiry. If this matter were to ever eventually move to formal litigation, we could request an adverse inference regarding any destroyed, altered or not properly maintained records.

My office is committed to a full and fair inquiry. There will be an opportunity for discussion before any final decisions are made. I trust that [redacted] shares our interest

in a thorough and timely review and analysis of these concerning allegations, and I appreciate your full cooperation in this regard.

Responsive documents and information are due by **Friday July 1, 2022** and should be forwarded directly to Assistant United States Attorney [redacted] at [redacted] If the documents are too voluminous to send through email, please contact AUSA [redacted] at [redacted] to arrange for a file-sharing option.

Sincerely,

[redacted]

RACHAEL S. ROLLINS
United States Attorney

Cc: [redacted]
Chief, Civil Rights Unit

[redacted]
Assistant U.S. Attorney

EXHIBIT 8

Text messages between Rachael Rollins and three employees of the U.S. Attorney's Office for the District of Massachusetts

From: [redacted]llins
To: [redacted]
To: [redacted]
To: [redacted]

https://www.bostonherald.com/2022/09/11/rachael-rollins-recused-as-feds-eye-suffolk-da-kevin-hayden-in-mbta-transit-police-case/

Attachments:

Title: E006A26F-9F16-4271-9ABE-6A7FACE77DDB.pluginPayloadAttachment
Size: 198
[redacted]

Title: 4AF166DB-FB7A-411B-820D-3B10C99673B7 pluginPayloadAttachment
Size: 127766
[redacted]

Participant	Delivered	Read	Played
[redacted]		9/11/2022 9:24:53 PM(UTC-4)	

Status: Read

9/11/2022 8:10:54 PM(UTC-4)

[redacted]

From: [redacted] Rachael Rollins
To: [redacted]
To:
To:

WTF!?!

When was the office contacted about this? And why wasn't I called? Immediately? How are they quoting things?

Participant	Delivered	Read	Played
[redacted]		9/11/2022 9:24:53 PM(UTC-4)	

Status: Read

9/11/2022 8:10:54 PM(UTC-4)

[redacted]

From [redacted]
To: [redacted]
To: [redacted] ns
To: [redacted]

Just tried you. Please call when you can

Participant	Delivered	Read	Played
[redacted] Rachael [redacted]		9/11/2022 9:24:53 PM(UTC-4)	

Status: Read

9/11/2022 8 20:42 PM(UTC-4)

[redacted]

EXHIBIT 9

Email from a host of the Democratic National Committee fundraiser to a U.S. Attorney's Office for the District of Massachusetts employee

To: [redacted](USAMA)[[redacted]@usa.doj.gov]
From: [redacted]
Sent: Fri 7/8/2022 9:42:11 PM
Subject: RE: [EXTERNAL] FW: Dr.Jill Biden

.....
,,,,,
Hi [redacted]
FLOTUS expected at 4:45pm, if you can be there by 4pm that would work great.
Thanks,
[redacted]

From: [redacted] (USAMA) [mailto:[redacted]@usdoj.gov]
Sent: Thursday, July 7, 2022 4:42 PM
To: [redacted]
Subject: RE: [EXTERNAL] FW: Dr.Jill Biden

Hi [redacted]
I got your message.Thank you for the invite to next Thursday's event.It looks as if the US Attorney has two other engagements on her calendar and may not be able to make it. I'm not sure if I can make yet, but will let you know.
I don't have a direst email for [redacted] but I do have a contact for [redacted].Also, the email the [redacted]
Thanks,
[redacted]

From: [redacted]
Sent: Thursday, July 7, 2022 4:10 PM
To: [redacted] (USAMA) [redacted]
Subject: [EXTERNAL] FW: Dr.Jill Biden

Hi [redacted]
Just left a voicemail for you. Wanted to extend an invite to you and Ms. Rollins to the event we are having next Thursday. Would love to have you there. Also, could you kindly forward contact details of [redacted] and I will forward an invite as well.
Thanks,
[redacted]

From: [redacted]
Sent: Thursday, July 7, 2022 4:07 PM
To: [redacted]
Subject: Dr.Jill Biden

Sent from my iPhone

The Democratic Party

AND

[redacted]

cordially invite you to

A RECEPTION WITH DR. JILL BIDEN

In support of the Democratic Grassroots Victory Fund

THURSDAY, JULY 14, 2022
TIME TO BE ANNOUNCED
ANDOVER, MASSACHUSETTS
ADDRESS UPON R.S.V.P.

RSVP

Space is limited and all attendees will be required to comply with COVID-19 protocols in order to participate in the event.

For any questions, please contact [redacted] at [redacted] or [redacted]

CONTRIBUTIONS OR GIFTS TO THE DEMOCRATIC GRASSROOTS VICTORY FUND ARE NOT TAX DEDUCTIBLE.

PAID FOR BY THE DEMOCRATIC GRASSROOTS VICTORY FUND, A JOINT FUNDRAISING COMMITTEE AUTHORIZED BY THE DEMOCRATIC NATIONAL COMMITTEE AND THE STATE DEMOCRATIC PARTIES (IN: AL, AK, AZ, AR, CA, CO, CT, DC, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, AND WY). 430 S. CAPITOL ST. SE, WASHINGTON, D.C. 20003. NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE.

Contributions or gifts to the Democratic Grassroots Victory Fund are not tax deductible. Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation, and name of employer of individuals whose contributions exceed $200 in a calendar year. The Democratic Grassroots Victory Fund does not accept contributions from registered foreign agents or anyone under the age of 16. Federal law prohibits the acceptance of corporate or labor union contributions. The Democratic Grassroots Victory Fund is able to accept up to $875,000 from an individual donor and up to $405,900 from a multicandidate committee in a calendar year. The first $35,500/$35,500 from a person/multicandidate committee ("PAC") will be allocated to the DNC. The next $310,900/$295,900 from a person/PAC will be split equally among the following state Democratic parties up to $10,900/$5,900 per party: AL, AK, AZ, AR, CA, CO, CT, DC, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, and WY. Any additional funds will be allocated to the RNC, subject to applicable contribution limits. Contributions will be used in connection with federal elections. A contributor may designate their contribution for a particular participant. The allocation formula set forth above may change if following it would result in an excessive contribution.

EXHIBIT 10

Email between U.S. Attorney's Office for the District of Massachusetts employees

To: [redacted] (USAMA)[redacted]@usa.doj.gov]
From: [redacted] (USAMA)
Sent: Mon 7/11/2022 7:24:15 PM
Subject: FW: USA fundraiser invitation - THURSDAY JULY 14

I know you're on vacation this week, but I wanted to make sure you were brought up to speed on an invitation RR received to attend a fundraiser for Dr. Jill Biden with the DNC. I told RR today that she received the invitation, but we advised her not to attend. We suggested that if she really wanted to greet FLOTUS, that she could do so by walking the 10 minutes through the Secret Service barricade to say hi to FLOTUS outside of the event. We told her that she should not go in. She agreed to this plan, and acknowledged that she should not go in. I asked [redacted] to check with GCO (see below) to make sure this plan was ok.

From: [redacted] (USAMA) 2 <[redacted]@usa.doj.gov>
Sent: Monday, July 11, 2022 2:10 PM
To: [redacted] (USAMA) <[redacted]@usa.doj.gov>
Subject: RE: USA fundraiser invitation - THURSDAY JULY 14

Thanks – that is much simpler. Stay tuned.

From: [redacted] (USAMA) <[redacted]@usa.doj.gov>
Sent: Monday, July 11, 2022 2:03 PM
To: [redacted] (USAMA) 2 <[redacted]@usa.doj.gov>
Subject: RE: USA fundraiser invitation - THURSDAY JULY 14

Rachael wants to go- on her own- to meet with Dr. Jill Biden outside of the event (before it starts). She will just be saying hi and will not go in.

From: [redacted] (USAMA) 2 <[redacted]@usa.doj.gov>
Sent: Monday, July 11, 2022 1:48 PM
To: [redacted] (USAMA) <[redacted]@usa.doj.gov>
Subject: FW: USA fundraiser invitation - THURSDAY JULY 14

I don't know the answer to any of these questions, except I can run a conflicts check with the names on the invite. Any chance you or [redacted] have more info?

From: [redacted] (USAEO) [redacted]@usa.doj.gov>
Sent: Monday, July 11, 2022 1:43 PM
To: [redacted] (USAMA) 2 [redacted]@usa.doj.gov>
Subject: RE: USA fundraiser invitation - THURSDAY JULY 14

[redacted]

Thank you for reaching out to GCO. I am the duty attorney today and am happy to assist you. Please note that GCO's standard response time is 5 to 10 business days for ethics matter, but I will do my best to provide guidance on this expedited request.

I will need some additional information in order to analyze this matter and to determine if additional approvals, including ADAG approval, are needed.

- What will occur at this event?
- Will USA Rollins be speaking, receiving/providing any awards, actively involved in any way, etc.?
- What will the role be of USA Rollins at the event?

- What will the role be of [redacted] at the event?
- Any conflicts of interest (actual or apparent) with the hosts of the event?

As to the meet and greet, what did the USA have in mind for such an event?

Any additional information you can provide is greatly appreciated so we can provide our guidance.

Thank you,
[redacted]

[redacted]
[redacted]
General Counsel's Office
Executive Office for United States Attorneys
175 N Street NE, [redacted]
Washington, DC 20530
[redacted]
[redacted]
[redacted]

From: [redacted] (USAMA) 2[redacted]@usa.doj.gov>
Sent: Monday, July 11, 2022 12:21 PM
To: [redacted]@usa.doj.gov>
Subject: USA fundraiser invitation - THURSDAY JULY 14

Hello,

U.S. Attorney Rachael Rollins and [redacted] (also a government employee but less restricted) were invited to a fundraiser where First Lady Dr. Jill Biden will be in attendance (see attached). It's this Thursday, July 14, at 4:00pm. We would like to know if USA Rollins and/or [redacted] may attend. If USA Rollins is not permitted to attend the fundraiser, would she be permitted to set up a separate brief meet-and-greet with Dr. Biden while she is in town?

Apologies for the short-turnaround request, but I just learned of the event today and it's happening on Thursday.

Thanks,
[redacted]

[redacted]
Assistant United States Attorney
District of Massachusetts
John Joseph Moakley Courthouse
One Courthouse Way, Suite [redacted]
Boston, Massachusetts 02210
[redacted] | [redacted]
[redacted]

EXHIBIT 11

Email forwarding the Executive Office for United States Attorneys's guidance to Rachael Rollins

To: [redacted] (USAMA)[redacted]@usa.doj.gov]
Cc: Rollins, Rachael (USAMA)[redacted]@usa.doj.gov]; [redacted] (USAMA)[redacted]@usa.doj.gov]
From: [redacted] (USAMA)
Sent: Wed 7/13/2022 6:16:34 PM
Subject: Re: (ETH-22-4280) GCO Guidance re: USA Rollins Meet & Greet with FLOTUS

Adding RR and [redacted]

Sent from my iPhone

On Jul 13, 2022, at 1:36 PM, [redacted] (USAMA) [redacted]@usa.doj.gov> wrote:

Hi [redacted] -

Please see the GCO guidance for tomorrow's event with Dr. Jill Biden. As we expected, she has been advised not to "attend the fundraiser, provide remarks of any kind, or discuss policy or legislation on July 14." She is allowed to meet the First Lady and then leave.

Would you mind sharing this with RR?

[redacted]

From: [redacted] (USAEO) [redacted]@usa.doj.gov>
Sent: Tuesday, July 12, 2022 8:28 AM
To: [redacted] (USAMA) 2 <[redacted]@usa.doj.gov>
Cc: [redacted] USAEO)[redacted]@usa.doj.gov>; [redacted] (USAEO) <[redacted]@usa.doj.gov>; [redacted] (USAEO) <[redacted]@usa.doj.gov>; [redacted] (USAEO) <[redacted]@usa.doj.gov>
Subject: (ETH-22-4280) GCO Guidance re: USA Rollins Meet & Greet with FLOTUS

Confidential Attorney Client Communication

[redacted]

Thank you for clarifying that USA Rollins will not be attending the fundraiser, providing remarks of any kind, or discussing policy or legislation on July 14. We do not see an issue with USA Rollins simply meeting with the First Lady individually in a meet and greet type situation and then leaving after the meet and greet.

Please let me know if you have any questions or need any additional information related to this matter.

Thank you again for reaching out to GCO.

[redacted]

[redacted]
Assistant General Counsel

General Counsel's Office
Executive Office for United States Attorneys
175 N Street NE, Suite [redacted]
Washington, DC 20530
[redacted]
[redacted]
[redacted]

From: [redacted] (USAMA) 2[redacted]@usa.doj.gov>
Sent: Monday, July 11, 2022 2:20 PM
To: [redacted] (USAEO) [redacted]@usa.doj.gov>
Subject: RE: USA fundraiser invitation - THURSDAY JULY 14

[redacted]

So my understanding at this point is that USA Rollins wants to meet with Dr. Jill Biden outside the location of the event, which is somewhere in Andover, MA. It would just be a brief meet-and-greet outdoors, and then the USA would leave. I am not sure who the First Lady might have with her, but the USA would go alone. [redacted] will not attend that meeting or the fundraiser.

Thanks,
[redacted]

EXHIBIT 12

Text messages between Rachael Rollins and four employees of the U.S. Attorney's Office for the District of Massachusetts

From: [redacted] Rachael Rollins

To: [redacted]

To:

To:

To:

Because we changed Malden to a zoom that is much smaller, I CAN GO TO THE DR JILL BIDEN EVENT!!!

PLEASE MAKE SURE EVERYONE KNOWS THAT IS NOW A YES.

[redacted] from the National Democratic Party called me yesterday to confirm.

[redacted], do we have a contact? I don't want to park 6 miles away and walk in. With [redacted] at BC I didn't have to.

7/13/2022 6:48:05 AM(UTC-4)

From: [redacted]
To: [redacted]
To: [redacted]
To: [redacted] Rachael Rollins
To: [redacted]

We didn't change Malden to a Zoom? It's in person still but just closed door like we discussed on the call yesterday.

7/13/2022 8:13:43 AM(UTC-4)

From: [redacted] Rachael Rollins

To: [redacted]

To:

To:

To:

I said we could do it by zoom.

In the future, let's make sure whoever is responsible to planning things I am doing, before the call ends repeats back what they understand is the final plan. This is happening too often.

7/13/2022 8:16:54 AM(UTC-4)

From: [redacted]

To: [redacted]

To: [redacted] Rachael Rollins

To: [redacted]

To: [redacted]

I recall that the call was rushed at the end because you and [redacted] were trying to navigate to the state police entrance. We will discuss with Malden and Melrose this morning.

7/13/2022 8:19:04 AM(UTC-4)

From: [redacted] Rachael Rollins

To: [redacted]

To:

To:

To:

Your team needs to speak to each other before you call Malden and Medford. Speak to [redacted] - who told the DNC that I am going to the Biden event. It is about my calendar AS A WHOLE. Not just this event.

Come up with some potential solutions, present them to me and then I can decide what I would like to do with my time that day.

7/13/2022 8:26:03 AM(UTC-4)

From: [redacted] Rachael Rollins

To: [redacted]

To:

To:

To:

And I don't care if it is in person or zoom, I just want people considering my time, preparation needs, sanity and overall schedule.

7/13/2022 8:38:04 AM(UTC-4)

APPENDIX

Rachael Rollins's Response to OSC's Report of Prohibited Political Activity Under the Hatch Act

Michael R. Bromwich
[redacted]@steptoe.com

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
[redacted]
www.steptoe.com

Steptoe

May 12, 2023

The Honorable Henry J. Kerner
Special Counsel
U.S. Office of Special Counsel
1730 M St. Suite 218
Washington, D.C. 20036

Re: Response to "Report of Prohibited Political Activity Under the Hatch Act (OSC File No. HA-22-000173 (Rachael Rollins)"

Dear Mr. Kerner:

On behalf of United States Attorney ("USA") for the District of Massachusetts Rachael Rollins, we submit this letter in response to the draft report of the Office of Special Counsel ("OSC") entitled "Report of Prohibited Political Activity Under the Hatch Act (OSC File No. HA-22-000173 (Rachael Rollins)" (the "Draft Report").

Before we address the specific issues raised by the 25-page Draft Report, we want to make three points. First, we object in the strongest possible terms to the inclusion of 115 pages of personal text messages as exhibits, including scores of private, text messages between USA Rollins and Ricardo Arroyo, a current elected member of the Boston City Council. Publishing the private text messages themselves, as opposed quoting or paraphrasing relevant portions of their contents, constitutes an unnecessary and inappropriate incursion on the privacy rights of not only USA Rollins but also Councilor Arroyo. Although we disagree with many of the conclusions that the OSC has drawn from those text messages, at least the OSC asked Ms. Rollins some limited questions about them and gave her an opportunity to explain the meaning of—and context for—certain of those private text messages. From our review of the Draft

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Report, it appears that the OSC did not interview Councilor Arroyo and did not contact him during the investigation. Councilor Arroyo recently announced his re-election bid. There is no need to include so many text messages, or indeed any of them, so long as their contents are reported accurately. In contrast with the extensive set of attached text messages constituting 82% of your report (115/140 pages), the related Department of Justice, Office of the Inspector General report on the same two issues has not found it necessary to attach *any* of the text messages, presumably because of privacy and related concerns. We strongly urge the OSC to adopt the same approach. Without providing Councilor Arroyo with notice and the opportunity to be heard, it seems deeply unfair to publish scores of his private, personal text messages. Fairness dictates that, at a minimum, the text messages themselves should not be summarized in relevant part and not released publicly, and that Councilor Arroyo be provided advance notice of your report's release.

Second, although we appreciate the opportunity to comment on the Draft Report, we need to emphasize the limits on our ability to address its factual accuracy. The OSC states that it interviewed 11 witnesses, including Ms. Rollins. We were present during the OSC's interview of Ms. Rollins, but not for the interviews of the other 10 witnesses. Not only were we not present for those interviews, we had no meaningful opportunity to speak with many of those witnesses—namely, the members of Ms. Rollins's U.S. Attorney's Office staff. We were very mindful that such interviews on USA Rollins's behalf may have raised concerns among some members of her office's staff about the possibility of retaliation or retribution. Though such fears would have been misplaced, that does not mean they would not have existed. Based on that risk, Ms. Rollins and I agreed early on and made a conscious decision—in the best interests of her office—that that we would not conduct such interviews, even though that decision substantially prejudiced her ability to defend herself. Thus, we were essentially foreclosed from doing what any competent counsel would ordinarily do in other circumstances—*i.e.*, interview witnesses who had personal knowledge of the matters under investigation and whom we were certain the OSC would be interviewing.

Finally, before discussing the merits of the OSC Draft Report, we feel compelled to note the irony that the investigation into the potential violation of the Hatch Act by Ms. Rollins was publicly demanded by Senator Tom Cotton (R-AR), a strong supporter of former President Donald J. Trump. The Trump Administration was populated by several high-ranking officials who openly, routinely, and defiantly violated the Hatch Act with no consequences. *See generally*, U.S. Office of Special Counsel, *Investigation of Political Activity by Senior Trump Administration Officials During the 2020 Presidential*

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Election (Nov. 9, 2021). Indeed, Sen. Cotton was so unfamiliar with the Hatch Act that he requested that the DOJ OIG investigate the allegations rather than the OSC.[1]

On behalf of Ms. Rollins, here are our comments on specific passages of the report. In citing paragraph numbers, we refer to full paragraphs on a specific page, not carryover paragraphs from a previous page.

1. P. 2, ¶ 1: "The U.S. Office of Special Counsel (OSC) has found that U.S. Attorney for the District of Massachusetts, Rachael Rollins, violated the Hatch Act ~~and, in doing so, committed an extraordinary abuse of her power as U.S. Attorney~~. Chronologically, her first violation arose in July 2022 when, in disregard of legal advice from her own agency, and in violation of the Hatch Act, she attended a political party fundraiser in her official capacity. Her second violation occurred throughout August and September 2022, when she repeatedly attempted to sabotage-the campaign of a political candidate by leaking nonpublic U.S. Department of Justice (DOJ) information to the media to plant a story that he was facing a DOJ investigation. ~~This latter violation, in particular, is one of the most egregious Hatch Act violations that OSC has investigated.~~[1]"

Response: We request that the OSC delete the words and phrases that are struck through above. They are unnecessarily rhetorical and hyperbolic. OSC can state its conclusions without resorting to inflammatory rhetoric. As for the statement that Ms. Rollins attended the July 2022 event "in disregard from legal advice from her own agency," which we have highlighted, the evidence is equivocal about the legal advice that Ms. Rollins actually received. The bulk of the correspondence regarding the event did not include USA Rollins. In addition, we understand that the colleague who accompanied USA Rollins to the Andover event similarly recalled that she was not aware of any prohibition from entering the residence. Therefore, this conclusion cannot and should not be stated so starkly. This comment also applies to similar language ("She did so despite repeatedly being advised not to attend the fundraiser.") at page 18, paragraph 3. These absolute statements do not accurately reflect the welter of conflicting and equivocal advice provided to USA Rollins about attending the event.

2. P. 4—Timeline

[1] It is no accident that Sen. Cotton requested the investigation. During USA Rollins's highly contentious Senate confirmation process, he openly vowed to block her confirmation and waged an aggressive campaign against her, including on his website, and submitted a letter disparaging Ms. Rollins to the *Boston Herald*.

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We found this timeline, as presented, extremely difficult to follow and understand. We suggest that it be deleted from the final report, particularly in light of the fact that the relevant events are outlined in the text of the Draft Report.

3. P. 5, ¶ 1: "Prior to the event [Ms. Rollins] was told repeatedly, both in person and by email, not to attend the fundraiser. That advice came from both her own staff and DOJ officials in Washington, DC…. The Hatch Act implications were so apparent that a reporter outside the venue asked Ms. Rollins whether she was concerned that her presence at the event might violate the Hatch Act. Ms. Rollins responded "no" and, contrary to all the advice she had received, proceeded inside the fundraiser."

Response: These factual conclusions are stated with far more certainty than the evidence supports. In fact, Ms. Rollins sought and received approval to attend the Andover event from her internal Ethics team and from EOUSA. The admonition that the meet-and-greet with the First Lady should take place outside the residence where the fundraising event was to take place was, to our knowledge, mentioned once at the end of a lengthy email chain. The subject line had been changed and the advice from EOUSA that was summarized at the top of the email was followed by USA Rollins. USA Rollins credibly testified that she did not see the portion at the bottom of the lengthy the email chain which contained that requirement, which is believable both because of the volume of emails she receives daily and because she had a legitimate expectation that members of her staff would highlight anything that was crucial. As we stated above, our understanding is that the colleague who accompanied USA Rollins to the event was similarly unaware of the requirement to meet the First Lady outside.

From its investigation, the OSC is aware that there were numerous conflicting and confusing communications about USA Rollins's planned meet-and-greet with the First Lady. It is therefore not at all surprising that the importance, in retrospect, of whether the meet-and-greet should happen inside or outside the residence in determining whether a Hatch Act violation occurred might well have been lost on Ms. Rollins, as it also would be to anyone not steeped in the specifics of the Hatch Act. And as for the *Boston Herald* reporter yelling to USA Rollins that her presence might constitute such a violation, there was no reason for USA Rollins to attach any significance to that at all in the absence of some evidence that the reporter was knowledgeable about the Hatch Act. Also, when the reporter saw USA Rollins, she called her Ayana (presumably thinking she was Congresswoman Ayana Pressley, an elected official to whom the Hatch Act doesn't apply). Therefore, it is unsurprising that Ms. Rollins interpreted the reporter's question as low-level harassment rather than a definitive pronouncement from someone with Hatch Act expertise.

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4. P. 5, ¶ 2: "Ms. Rollins claimed that she did not attend the fundraiser but instead went to an event related to a U.S. Attorney's Office for the District of Massachusetts outreach program, the BRIDGES program. But there was no BRIDGES event in Andover that day."

Response: These assertions badly misconstrue what Ms. Rollins said. In fact, she said her colleague *knew the hosts of the event* because of their association with BRIDGES, not that the event itself was a BRIDGES event. She acknowledged that she spoke to someone associated with the DNC about the event; there was no mystery that the actual event was a fundraiser. USA Rollins intended to meet the First Lady *before* the fundraiser began and did so. USA Rollins was the first in line to say a quick hello and the first to leave as others) were still entering. Her understanding was the event was scheduled to start at 5 pm and USA Rollins left the residence at 5 pm. USA Rollins left the residence before any of the events normally associated with a fundraiser—call to order, speeches, requests for contributions, etc.—had begun. Attendees were driving up the road to the event as USA Rollins and her colleague were walking out and driving away.

5. P. 5, ¶ 3: "Ms. Rollins's abuse of her power within the federal justice system to achieve a political goal epitomizes the type of 'political justice' that Congress intended to prohibit."

Response: This sentence is unnecessarily hyperbolic and rhetorical. The OSC's position is that USA Rollins's actions violated the Hatch Act. That position can be stated plainly and clearly without resort to hyperbole or inflammatory rhetoric.

6. P. 7, ¶ 2: "In July she violated 5 U.S.C. §§ 7323(a)(1), 7324(a)(1), and 7324(a)(4) by attending a Democratic National Committee fundraiser in her official capacity and traveling to and from that fundraiser in a government vehicle. Ms. Rollins's unabashed willingness to use DOJ resources, information, and her official authority as a U.S. Attorney in furtherance of partisan political goals is directly contrary to both the letter and spirit of the Hatch Act."

Response: The evidence is clear that the USAO brought to Ms. Rollins's attention an opportunity to meet the First Lady. USA Rollins was present at the residence where the fundraiser later took place for a total of approximately 20 minutes – including taking a rapid COVID test outside and receiving her results - and that she left before the program began. She was there for the sole purpose of a brief meet-and-greet with the First Lady. Ms. Rollins pledged no money, encouraged no one else to pledge money or make cash contributions, stayed for no speeches, and left immediately after she shook hands with the First Lady and posed for a couple of

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photographs. USA Rollins believed she was following the specific guidance spelled out at the top of the email she had received from DOJ personnel precisely so that she would *not* violate the Hatch Act.

As for the use of the government vehicle, on leaving the residence, USA Rollins conducted government business with three different towns within her jurisdiction—one by phone, one by Zoom and one in person. There is no question that her use of the government vehicle to do government business is entirely proper. The fact that she used the same vehicle as she needed to conduct the subsequent pieces of government business for a brief stop between her day and evening of government business does not make its use improper.[2] Indeed, the advice Ms. Rollins received from DOJ strongly suggested that if the meet-and-greet had in fact taken place outdoors, no one would have thought she had violated the Hatch Act. In addition, the OSC's phrase about her "unabashed willingness" to, among other things, "use her official authority as U.S. Attorney in furtherance of partisan political goals" completely loses sight of the fact she *is* the U.S. Attorney. She cannot shed her identity. Finally, the conclusion about her abusing her official authority would be supported if she had approved promotional materials for the fundraising event that featured the fact that she would attend. No such promotional materials exist, nor would Ms. Rollins have approved them.

7. P. 9, ¶ 1: "Ms. Rollins actively supported Mr. Arroyo in his campaign for Suffolk County DA,…"

Response: The phrase "actively supported" suggests that Ms. Rollins publicly endorsed Mr. Arroyo or contributed money to his campaign. As the OSC knows, she did neither.

8. P. 10, ¶ 2: "Ms. Rollins was so involved in the Suffolk County DA election that she began to view some of her official engagements as U.S. Attorney through the lens of whether they would help Mr. Arroyo's or hurt Mr. Hayden's campaigns…. In an apparent effort to give Mr. Arroyo similar exposure, Ms. Rollins messaged him and wrote, "Make sure you let me know about stuff that I can show up at. And we can 'happen' to be there together."

Response: There is no evidence that Ms. Rollins ever made arrangements to show up at an event where Arroyo was appearing. Her suggestion that she might do so was designed to provide encouragement to a close friend, not to state her actual

[2] The OSC repeats these allegations at page 19, final paragraph. Our response applies equally to that formulation of the conclusion.

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future intentions. This comment also applies to the OSC Draft Report further pressing the point at page 11, paragraph 2.

9. P. 15, ¶ 3: "Notably, in leaking information about the potential investigation of Mr. Hayden, Ms. Rollins chose news outlets for whom she had previously served as a source. In May 2022 she leaked a nonpublic DOJ letter to the *Herald* describing a DOJ investigation, which resulted in the *Herald* publishing an article that same day. In June 2022 she similarly leaked a nonpublic DOJ letter to the *Globe* describing a separate DOJ investigation, which again resulted in an article that same day."

Response: In fact, Ms. Rollins would have been well within her rights as the U.S. Attorney to make public information about these two investigations. Department of Justice, *Justice Manual* 1-7.400(C) (noting, that "when the community needs to be reassured that the appropriate law enforcement agency is investigating a matter, or where release of information is necessary to protect the public safety, comments about or confirmation of an ongoing investigation may be necessary…"). Thus, the fact that Ms. Rollins provided information about these two investigations that she initiated to the media is not as sinister as the OSC Draft Report suggests. It was well within her rights as U.S Attorney and reflects what she always pledged to be as U.S. Attorney—a person who advocates on behalf of communities whose voices had never been sufficiently heard and on whose behalf the federal government has not been a consistent champion.

The letter to the mayor of Quincy was about an event that had occurred nearly eight years earlier; scores of media articles had been written about it. The communities most affected by the Quincy letter are those members of that community suffering from mental health issues, substance use disorders, and housing insecurity.

The letter to the mayor of Everett focused on extremely egregious conduct, some of which went back several years. The community in Everett, comprised of well over 50% Black and brown people, including a substantial immigrant population, needed assurances that the federal government was looking into the concerns of racial, gender, and national origin discrimination, and allegations of sexual harassment and assault.

10. P. 17, ¶ 1: "The only reason that Ms. Rollins's disclosures about DOJ activities, including a potential investigation of Mr. Hayden, carried any weight was her authority as U.S. Attorney."

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Response: This is simply wrong as a matter of fact. The value of the information—to the extent it had value—was intrinsic to the information, not dependent on who provided it.

11. P. 20, ¶ 2: "And Ms. Rollins acknowledged to OSC that she received advice prior to the event that she should not attend the fundraiser. Specifically, she recalled being told "if you get there and the fundraiser has started, turn around and leave, or something like that."

Response: Again, USA Rollins's understanding, shared by her USAO colleague, was that as long as she left before the formal program began, she was acting consistently with the requirements EOUSA had given her regarding the Hatch Act—*i.e.*, she was not "attending the fundraiser." If the inside/outside distinction was so significant, it should have been highlighted more prominently by EOUSA.

12. P. 21, ¶ 5: "Ms. Rollins admits that she went to Andover in her official capacity…"

Response: Ms. Rollins was the U.S. Attorney before she entered the residence, during the brief time she was in the residence, and when she left the residence. Her presence was not announced in advance of the event, nor in the presence of the attendees. Indeed, the name slip she was handed to quickly meet FLOTUS said "DA Rachel Rollins". Both her title and her name were wrong. It is highly likely that the vast majority of the 10-15 attendees present when she first arrived were the close immediate family of the hosts. Included in that number were several children under the age of 10. The instant the First Lady arrived, USA Rollins was in and out within minutes. There was in fact no meet and greet as USA Rollins had been told. It was clear nobody had told the First Lady about the meeting. Which makes clear that USA Rollins would likely have been tazed or shot by Secret Service had she been standing on a lawn somewhere outside the home and attempted to approach the First Lady. USA Rollins was leaving as Senator Markey, a family friend of hers for decades, was just arriving and walking in and took a quick photo with him. The photos took less than a minute. People were arriving as she was leaving, and nobody had spoken yet or even gone to the podium that was set up in the main room. USA Rollins clearly left before the event began. And as said previously, the rapid COVID stations were still set up and active. Therefore, this "admission" that she attended "in her official capacity" is at best misleading and should be removed from the OSC Report.

13. P. 21, same: "[Ms. Rollins's] defense against the Hatch Act allegations relates entirely to the third question; she claims that she did not attend the DNC fundraiser but, instead, went to a community engagement event related to USAO-MA's Building Respect In Diverse Groups to Enhance Sensitivity (BRIDGES) program, But that assertion is wholly contradicted by the

evidence—there simply was no BRIDGES event in Andover on July 14. [footnotes omitted]"

Response: As noted above in our comment on #4 above, this is a misstatement of Ms. Rollins's statements about BRIDGES and its relationship to the fundraiser. The invitation came from respected members of the BRIDGES community, which is why the USAO Community Liaison was invited. It was not a BRIDGES event. She originally met the hosts at an event where many BRIDGES members were present.

14. P. 23: In consecutive paragraphs, the Draft Report asserts that "Ms. Rollins was repeatedly advised not to attend the fundraiser or go inside the venue," and that Ms. Rollins's USAO staff advised "Ms. Rollins to meet with Dr. Biden outside the venue and not attend the fundraiser."

Response: Ms. Rollins understood that as long as she did not stay for the program at the Andover event—the speeches, and the solicitations for contributions—she was observing the requirements of the Hatch Act. She herself did not speak, nor did she discuss any legislation, which she was told via email that she could not do. As described above, the requirement that she should not enter the premises—and that this made all the difference—was either not effectively communicated to Ms. Rollins or not adequately understood by her. In fact, USA Rollins spent only 20 minutes total there – including walking up the hill, getting confronted by a Herald reporter, taking a rapid COVID test, waiting for the results, walking inside, waiting for Dr. Biden to arrive, briefly saying hello to Dr. Biden, saying hello to Senator Markey on the way out, taking pictures with him and leaving before what she considered the fundraiser—speeches, requests for contributions, and networking—began. All of that happened in 20 minutes. The fact that what USA Rollins could or could not do at the Andover residence was the subject of countless emails and conversations demonstrates the lack of clarity about what was permissible for USA Rollins to do. As the Draft Report acknowledges, the Executive Office of U.S. Attorneys approved Ms. Rollins attending the event.

P. 25, ¶ 1: "In particular, her repeated efforts to leak nonpublic DOJ information for the purpose of harming a political candidate rank among the most flagrant violations of the Hatch Act that OSC has ever investigated."

Response: This piece of hyperbole should be deleted. It is inflammatory and almost surely untrue. The OSC was founded in 1939. An OSC investigator who was 25 years old in 1939, at OSC's founding, would be 109 years old today. Only such an employee who has been employed consecutively from 1939 to the present would be capable of making a statement as definitive as this. It is enough for OSC

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to assert its conclusion in this case rather than making bold and insupportable statements such as this.

Sincerely,

[redacted]

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