



**U.S. Department of Justice**  
Office of Information Policy  
*6<sup>th</sup> Floor*  
441 G Street, NW  
Washington, DC 20530-0001

Telephone: (202) 514-3642

August 30, 2019

William F. Marshall  
Judicial Watch, Inc.  
Suite 800  
425 Third Street, SW  
Washington, DC 20240  
[info@JudicialWatch.org](mailto:info@JudicialWatch.org)

Re: DOJ-2019-004739  
DOJ-2019-004740  
19-cv-00388 (D.D.C.)  
VRB:JMB:BPF

Dear William F. Marshall:

This is a final response to your Freedom of Information Act (FOIA) requests dated September 21, 2018, in which you requested records from the Offices of the Attorney General (OAG) or Deputy Attorney General (ODAG) (1) reflecting surreptitious recordings or transcripts of meetings with the Executive Offices of the President or Vice President, or (2) records related to the 25th Amendment or the fitness of the President. You also requested ODAG records consisting of “memoranda, reports, and opinions written, signed or authorized by DAG Rosenstein in the month of May 2017, referencing the 25th Amendment to the US Constitution and/or the fitness of the President of the United States.”<sup>1</sup>

Please be advised that searches have been conducted on behalf of OAG and ODAG, as well as within the Departmental Executive Secretariat, and fourteen pages containing records responsive to your request were located. I have determined that these fourteen pages are appropriate for release with excisions made pursuant to Exemptions 5 and 6 of the FOIA, 5 U.S.C. § 552(b)(5) and (b)(6), and copies are enclosed. Exemption 5 pertains to certain inter- or intra-agency communications protected by the deliberative process privilege. Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of personal privacy.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2018). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

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<sup>1</sup> This language is the result of a scoping agreement reached, through counsel, by email dated May 6, 2019, which narrowed Part 4 of the request seeking ODAG records.

-2-

If you have any questions regarding this response, please contact Serena Orloff of the Department's Civil Division, Federal Programs Branch, at 202-305-0167.

Sincerely,

A handwritten signature in blue ink that reads "Jonathan Breyan". The signature is written in a cursive style with a large, stylized 'J' and 'B'.

Jonathan Breyan  
Senior Reviewing Attorney  
for  
Vanessa R. Brinkmann  
Senior Counsel

Enclosures

**Rosenstein, Rod (ODAG)**

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**From:** Rosenstein, Rod (ODAG)  
**Sent:** Friday, September 21, 2018 2:46 PM  
**To:** Eisenberg, Harvey (USAMD)  
**Subject:** RE: Ellen Nakashima

I don't mean about me. (b)(5)

-----Original Message-----

From: Eisenberg, Harvey (USAMD) (b)(6)  
Sent: Friday, September 21, 2018 2:27 PM  
To: Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>  
Subject: Re: Ellen Nakashima

I'm aware. Besides letting you know, (b)(5) My best to you and the family.  
Harvey

Harvey Eisenberg  
Assistant U.S. Attorney  
Chief, National Security Section  
District of Maryland

Coordinator, Anti-Terrorism Advisory Council of Maryland (b)(6) (o) (b)(6) (m)

Sent from my iPhone

> On Sep 21, 2018, at 2:24 PM, Rosenstein, Rod (ODAG) <Rod.Rosenstein5@usdoj.gov> wrote:

>

> Thanks! Hopefully we are being successful and the reporters are having difficulty finding anybody to  
comment about things. (b)(5)

(b)(5)

>

> -----Original Message-----

> From: Eisenberg, Harvey (USAMD) (b)(6)  
> Sent: Friday, September 21, 2018 2:21 PM  
> To: Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov>  
> Subject: Ellen Nakashima

>

> Hi Rod,

> She just called to inquire about the story the Times apparently just placed online that you allegedly  
were going to invoke the 25th Amendment and wear a wire at the time of Jim Comey's firing.  
Obviously, I had no comment. Just wanted to give you a heads up that she's calling around. All my best  
always, Harvey

>

<

>  
>  
> Sent from my iPhone  
>  
>

**Flores, Sarah Isgur (OPA)**

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**From:** Flores, Sarah Isgur (OPA)  
**Sent:** Friday, September 21, 2018 10:00 AM  
**To:** Whitaker, Matthew (OAG)  
**Subject:** Fwd: Story response

Should have sent this to you last night

Begin forwarded message:

**From:** "Flores, Sarah Isgur (OPA)" <[siflores@jmd.usdoj.gov](mailto:siflores@jmd.usdoj.gov)>  
**Date:** September 20, 2018 at 10:09:18 PM CDT  
**To:** "Shine, Bill J. EOP/WHO" <[William.J.Shine@who.eop.gov](mailto:William.J.Shine@who.eop.gov)>  
**Cc:** "Donaldson, Annie M. EOP/WHO" <[Ann.M.Donaldson@who.eop.gov](mailto:Ann.M.Donaldson@who.eop.gov)>, "Sanders, Sarah H. EOP/WHO" <[Sarah.H.Sanders@who.eop.gov](mailto:Sarah.H.Sanders@who.eop.gov)>  
**Subject:** Re: Story response

Update: this is now set to post in the am.

(If the note about Elliot is to me, I don't think I know who that is referring to)

On Sep 20, 2018, at 10:01 PM, Shine, Bill J. EOP/WHO <[William.J.Shine@who.eop.gov](mailto:William.J.Shine@who.eop.gov)> wrote:

Thank you

Please share with Elliott ASAP.

On Sep 20, 2018, at 10:44 PM, Flores, Sarah Isgur (OPA) <[Sarah.Isgur.Flores@usdoj.gov](mailto:Sarah.Isgur.Flores@usdoj.gov)> wrote:

Annie: Boss calling Don re the below--if you think appropriate, share with Don.

Bill: we've sent a response from the DAG that's below and had someone in the room dispute the "wire" part noting the dag was being sarcastic.

The New York Times's story is inaccurate and factually incorrect. I will not further comment on a story based on anonymous sources who are obviously biased against the Department and are advancing their own personal agenda. But let me be clear about this: based on my personal dealings with the President, there is no basis to invoke the 25th Amendment.



Begin forwarded message:

**From:** "Goldman, Adam"  
<[adam.goldman@nytimes.com](mailto:adam.goldman@nytimes.com)>  
**Date:** September 20, 2018 at 3:47:54 PM  
EDT  
**To:** "Flores, Sarah Isgur (OPA)"  
<[Sarah.Isgur.Flores@usdoj.gov](mailto:Sarah.Isgur.Flores@usdoj.gov)>  
**Cc:** Michael Schmidt  
<[schmidt@nytimes.com](mailto:schmidt@nytimes.com)>  
**Subject:** Story response

Sarah:

Mike Schmidt and I are preparing a story on deputy attorney general Rod Rosenstein. We have learned the follow things below. We'd like a response later this afternoon. Please give a shout if you have any questions. Many thanks, Adam and Mike

-In a meeting on May 16, 2017 with senior federal law enforcement officials in Rosenstein's office, Rosenstein raised the idea of wearing a device to record his conversation with the president. He specifically used the word "wire." He also said McCabe could wear a wire.

-In a separate conversation around that time, Rosenstein and acting FBI director Andrew McCabe discussed using the 25th amendment to remove President Trump. Rosenstein said that he may be able to get Sessions and Kelly to go along with the plan.

-In a conversation on May 12, 2017 in the command center of the Justice Department Rosenstein appeared "upset" and "emotional" over the Comey firing.

-In a conversation on May 14, 2017 Rosenstein asked McCabe to reach out to Comey to seek advice about appointing a special counsel. McCabe believed that was a bad idea.

-Rosenstein considered appointing Jim  
Cole as the special counsel.

—  
Adam Goldman  
Reporter  
The New York Times  
(M) (b)(6)  
(O) 202.862.0362

**Flores, Sarah Isgur (OPA)**

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**From:** Flores, Sarah Isgur (OPA)  
**Sent:** Thursday, September 20, 2018 7:22 PM  
**To:** Weinsheimer, Bradley (ODAG)  
**Cc:** O'Callaghan, Edward C. (ODAG)  
**Subject:** Re: Story response

(b)(5) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

On Sep 20, 2018, at 6:18 PM, Weinsheimer, Bradley (ODAG) <[bradweinsheimer@jmd.usdoj.gov](mailto:bradweinsheimer@jmd.usdoj.gov)> wrote:

(b)(5) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

---

**From:** Flores, Sarah Isgur (OPA)  
**Sent:** Thursday, September 20, 2018 7:12 PM  
**To:** Weinsheimer, Bradley (ODAG) <[bradweinsheimer@jmd.usdoj.gov](mailto:bradweinsheimer@jmd.usdoj.gov)>  
**Cc:** O'Callaghan, Edward C. (ODAG) <[ecocallaghan@jmd.usdoj.gov](mailto:ecocallaghan@jmd.usdoj.gov)>  
**Subject:** Re: Story response

(b)(5) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

On Sep 20, 2018, at 6:08 PM, Weinsheimer, Bradley (ODAG) <[bradweinsheimer@jmd.usdoj.gov](mailto:bradweinsheimer@jmd.usdoj.gov)> wrote:

(b)(5) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]



(b)(5)

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**From:** Weinsheimer, Bradley (ODAG)  
**Sent:** Thursday, September 20, 2018 6:32 PM  
**To:** Flores, Sarah Isgur (OPA) <[siflores@jmd.usdoj.gov](mailto:siflores@jmd.usdoj.gov)>  
**Cc:** O'Callaghan, Edward C. (ODAG) <[ecocallaghan@jmd.usdoj.gov](mailto:ecocallaghan@jmd.usdoj.gov)>  
**Subject:** RE: Story response

What about:

(b)(5)

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**From:** Flores, Sarah Isgur (OPA)  
**Sent:** Thursday, September 20, 2018 4:40 PM  
**To:** Weinsheimer, Bradley (ODAG) <[bradweinsheimer@jmd.usdoj.gov](mailto:bradweinsheimer@jmd.usdoj.gov)>  
**Subject:** Fwd: Story response

Begin forwarded message:

**From:** "Goldman, Adam" <[adam.goldman@nytimes.com](mailto:adam.goldman@nytimes.com)>  
**Date:** September 20, 2018 at 3:47:54 PM EDT  
**To:** "Flores, Sarah Isgur (OPA)" <[Sarah.Isgur.Flores@usdoj.gov](mailto:Sarah.Isgur.Flores@usdoj.gov)>  
**Cc:** Michael Schmidt <[schmidt@nytimes.com](mailto:schmidt@nytimes.com)>  
**Subject:** Story response

Duplicative Material

**Flores, Sarah Isgur (OPA)**

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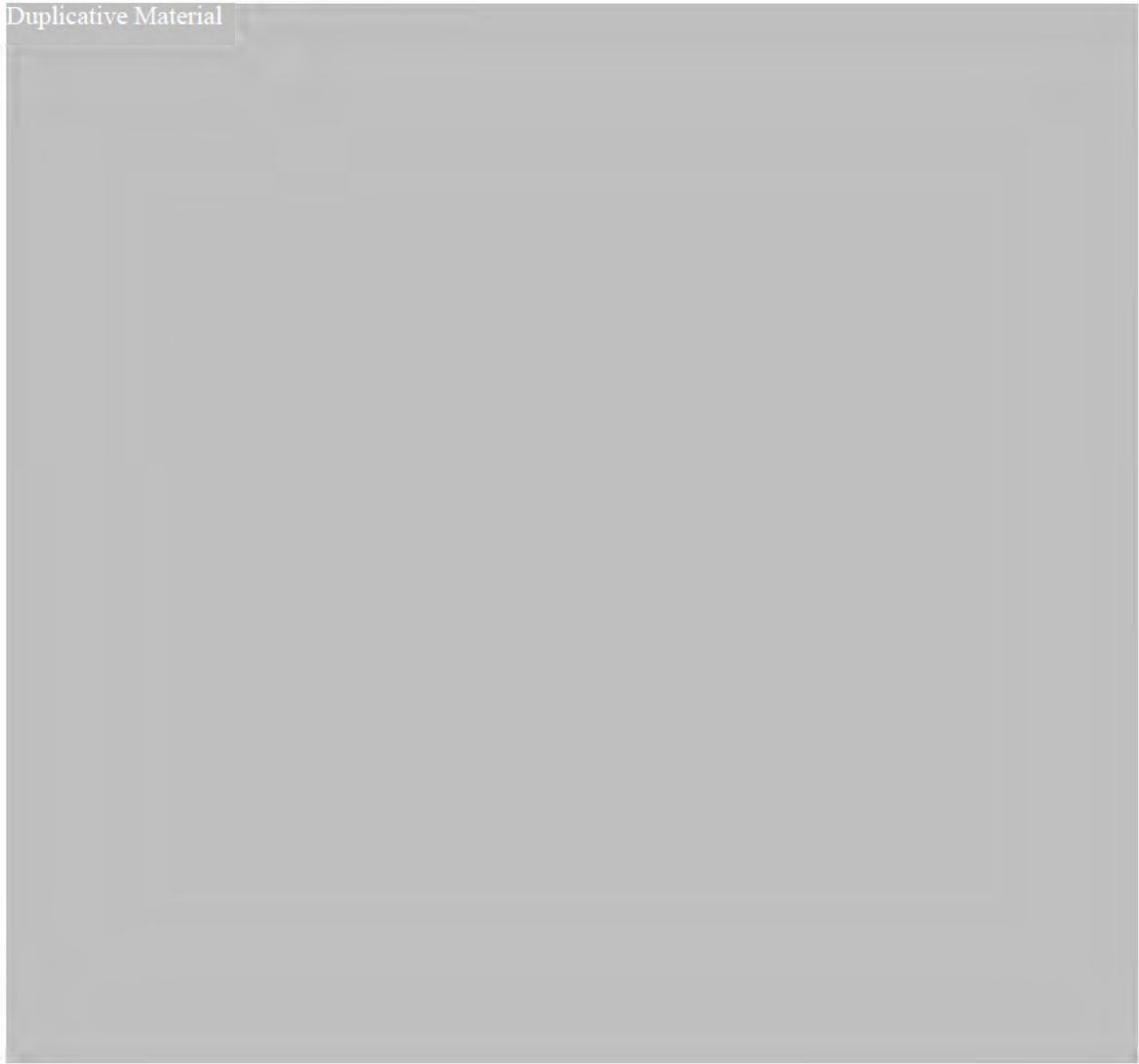
**From:** Flores, Sarah Isgur (OPA)  
**Sent:** Thursday, September 20, 2018 3:54 PM  
**To:** O'Callaghan, Edward C. (ODAG)  
**Subject:** Fwd: Story response

Call me

Begin forwarded message:

**From:** "Goldman, Adam" <[adam.goldman@nytimes.com](mailto:adam.goldman@nytimes.com)>  
**Date:** September 20, 2018 at 3:47:54 PM EDT  
**To:** "Flores, Sarah Isgur (OPA)" <[Sarah.Isgur.Flores@usdoj.gov](mailto:Sarah.Isgur.Flores@usdoj.gov)>  
**Cc:** Michael Schmidt <[schmidt@nytimes.com](mailto:schmidt@nytimes.com)>  
**Subject:** Story response

Duplicative Material



**O'Callaghan, Edward C. (ODAG)**

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**From:** O'Callaghan, Edward C. (ODAG)  
**Sent:** Thursday, September 20, 2018 8:02 PM  
**To:** Weinsheimer, Bradley (ODAG)  
**Cc:** Flores, Sarah Isgur (OPA)  
**Subject:** Re: Let me know if I should call you

Ok

Edward C. O'Callaghan  
202-514-2105

> On Sep 21, 2018, at 3:00 AM, Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov> wrote:

>

> (b)(5)

>

> The New York Times's story is inaccurate and factually incorrect. I will not further comment on a story based on anonymous sources who are obviously biased against the Department and are advancing their own personal agenda. But let me be clear about this: based on my personal dealings with the President, there is no basis to invoke the 25th Amendment.

>

> -----Original Message-----

> From: O'Callaghan, Edward C. (ODAG)  
> Sent: Thursday, September 20, 2018 7:54 PM  
> To: Flores, Sarah Isgur (OPA) <siflores@jmd.usdoj.gov>  
> Cc: Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov>  
> Subject: Re: Let me know if I should call you

>

> (b)(5)

>

> Edward C. O'Callaghan  
> 202-514-2105

>

>> On Sep 21, 2018, at 2:50 AM, Flores, Sarah Isgur (OPA) <siflores@jmd.usdoj.gov> wrote:

>>

>> (b)(5)

>>

>>> On Sep 20, 2018, at 6:47 PM, O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov> wrote:

>>>

>>> (b)(5)

>>>

>>> Edward C. O'Callaghan  
202-514-2105

>>> 202-514-2105

>>>

>>>> On Sep 21, 2018, at 2:42 AM, Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov> wrote:

>>>>

>>>> (b)(5)

>>>>

>>>> -----Original Message-----

>>>> From: O'Callaghan, Edward C. (ODAG)

>>>> Sent: Thursday, September 20, 2018 7:40 PM

>>>> To: Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov>

>>>> Cc: Flores, Sarah Isgur (OPA) <siflores@jmd.usdoj.gov>

>>>> Subject: Re: Let me know if I should call you

>>>>

>>>> Think good. (b)(5)

>>>>

>>>> Edward C. O'Callaghan

>>>> 202-514-2105

>>>>

>>>>> On Sep 21, 2018, at 2:36 AM, Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov> wrote:

>>>>>

>>>>> DAG has cleared this, which is what we just discussed:

>>>>>

>>>>> The New York Times's story is inaccurate and factually incorrect. I will not further comment on a story based on anonymous sources who are obviously biased against the Department and are advancing their own personal agenda. But let me be clear about this: based on my dealings with the President, there is no basis to invoke the 25th Amendment.

>>>>>

>>>>> -----Original Message-----

>>>>> From: Flores, Sarah Isgur (OPA)

>>>>> Sent: Thursday, September 20, 2018 7:25 PM

>>>>> To: O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>

>>>>> Cc: Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov>

>>>>> Subject: Re: Let me know if I should call you

>>>>>

>>>>> I'm back on the ground. So cell works.

>>>>>

>>>>>> On Sep 20, 2018, at 6:24 PM, O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov> wrote:

>>>>>>

>>>>>> Can we chat?

>>>>>>

>>>>>> Edward C. O'Callaghan

>>>>>> 202-514-2105

>>>>>>

>>>>>>> On Sep 21, 2018, at 2:22 AM, Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov> wrote:

>>>>>>>

>>>>>>> (b)(5)



>>>>>>

>>>>>> -----Original Message-----

>>>>>> From: Flores, Sarah Isgur (OPA)

>>>>>> Sent: Thursday, September 20, 2018 7:22 PM

>>>>>> To: Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov>

>>>>>> Cc: O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>

>>>>>> Subject: Re: Let me know if I should call you

>>>>>>

>>>>>> (b)(5)

>>>>>>

>>>>>>> On Sep 20, 2018, at 6:20 PM, Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov> wrote:

>>>>>>>

>>>>>>> (b)(5)

>>>>>>>

>>>>>>> -----Original Message-----

>>>>>>> From: Flores, Sarah Isgur (OPA)

>>>>>>> Sent: Thursday, September 20, 2018 7:15 PM

>>>>>>> To: Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov>

>>>>>>> Cc: O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>

>>>>>>> Subject: Re: Let me know if I should call you

>>>>>>>

>>>>>>> (b)(5)

>>>>>>>

>>>>>>>> On Sep 20, 2018, at 6:10 PM, Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov> wrote:

>>>>>>>>

>>>>>>>> (b)(5)

>>>>>>>>

>>>>>>>> -----Original Message-----

>>>>>>>> From: Flores, Sarah Isgur (OPA)

>>>>>>>> Sent: Thursday, September 20, 2018 7:09 PM

>>>>>>>> To: Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov>; O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>

>>>>>>>> Subject: Re: Let me know if I should call you

>>>>>>>>

>>>>>>>> (b)(5)

>>>>>>>>

>>>>>>>>> On Sep 20, 2018, at 6:04 PM, Flores, Sarah Isgur (OPA) <siflores@jmd.usdoj.gov> wrote:

>>>>>>>>>

>>>>>>>>>

## Weinsheimer, Bradley (ODAG)

---

**From:** Weinsheimer, Bradley (ODAG)  
**Sent:** Thursday, September 20, 2018 8:01 PM  
**To:** Flores, Sarah Isgur (OPA)  
**Subject:** RE: Let me know if I should call you

(b)(5)

-----Original Message-----

**From:** Flores, Sarah Isgur (OPA)  
**Sent:** Thursday, September 20, 2018 7:59 PM  
**To:** O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>  
**Cc:** Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov>  
**Subject:** Re: Let me know if I should call you

(b)(5)

> On Sep 20, 2018, at 6:54 PM, O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov> wrote:

>

Duplicative Material



**Weinsheimer, Bradley (ODAG)**

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**From:** Weinsheimer, Bradley (ODAG)  
**Sent:** Thursday, September 20, 2018 7:28 PM  
**To:** Flores, Sarah Isgur (OPA); O'Callaghan, Edward C. (ODAG)  
**Subject:** RE: Let me know if I should call you

DAG is good with this:

The New York Times's story is inaccurate and factually incorrect. I will not further comment on a story based on anonymous sources who are obviously biased against the Department and are advancing their own personal agenda. But let me be clear about this; based on my dealings with the President, there is no basis to invoke the 25th Amendment and any suggestion otherwise is false.

He is also good with a background statement from Scott in the manner you described.

-----Original Message-----

**From:** Flores, Sarah Isgur (OPA)  
**Sent:** Thursday, September 20, 2018 7:25 PM  
**To:** O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>  
**Cc:** Weinsheimer, Bradley (ODAG) <bradweinsheimer@jmd.usdoj.gov>  
**Subject:** Re: Let me know if I should call you

Duplicative Material



**Flores, Sarah Isgur (OPA)**

---

**From:** Flores, Sarah Isgur (OPA)  
**Sent:** Thursday, September 20, 2018 7:54 PM  
**To:** O'Callaghan, Edward C. (ODAG)  
**Cc:** Weinsheimer, Bradley (ODAG)  
**Subject:** Re: Let me know if I should call you

We've got 5 minutes for me to get this to them

> On Sep 20, 2018, at 6:47 PM, O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov> wrote:

Duplicative Material

