Justice Dept. Is Said to Open Criminal Inquiry into Its Own Russia Investigation

By Charlie Savage, Michael S. Schmidt and Adam Goldman

The inquiry is said to be the attorney general's recommendation that he bring to defend a political victory for President Trump...

President Trump has long sought to undermine the Mueller probe, which led to his impeachment. Doug Mills/The New York Times

By Kate Kelly and Adam Goldman

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WASHINGTON — For more than two years, President Trump has repeatedly attacked the Justice Department for what he has said were illegal even months after the special counsel closed it. Now, Mr. Trump's own appointees are looking into the Justice Department investigation into his 2016 campaign.

Justice Department officials have shifted an administrative review of the Russia investigation closely overseen by Attorney General William P. Barr into a criminal inquiry, according to people with knowledge of the matter. The move gives the prosecutor in charge, John H. Durham, the power to subpoena for witness testimony and documents without court party and to file criminal charges.

The opening of a criminal investigation is likely to raise concern that Mr. Barr is using the Justice Department to go after his political enemies, as he has done in the past. Congress, the F.B.I. director under whose tenure agents opened the Russia inquiry, and his own top prosecutors in the enforcement and intelligence offices as partisans who sought to block his election.

The Times has made clear that he sees the typically independent Justice Department as a tool to help his allies and punish his enemies. That view factors into the impeachment investigation against him, as prompts his aides to shape the probe of the Russia inquiry. House Democrats are considering whether to include Justice Department decisions in articles of impeachment that describe abuses of power.

The move also creates an unusual situation in which the Justice Department is investigating itself. Mr. Barr's criticisms of the Mueller's widely respected and veteran prosecutor who has investigated U.S. crime families and broken up Mafia rings, could help insulate the attorney general from accusations that he is using the prosecutor's indictment to settle scores in public.

It was not clear what potential crime Mr. Durham is investigating, nor when the criminal investigation began or whether Justice Department undertaken decided to open it.

The inquiry is certain to see the criminal investigation as a vindication of the years he spent pursuing the origins of the F.B.I. probe of the Russia investigation. In May, Mr. Trump told the Fox News host Sean Hannity that the F.B.I. had committed "treason" by using informants to gather information on whether his campaign conspired with Moscow's election sabotage — had committed treason.

"This can never allow these treasonous acts to happen to another president," Mr. Trump said. Mr. Barr said in a May speech that it was one of the biggest political scandals in United States history.

Federal investigators need only a "reasonable indication" that a crime has been committed to open an investigation, a much less rigorous standard than the probable cause required to open a full criminal investigation. Mr. Durham, who as prosecutor, became known for his investigations, a news launch in Southern, according to Justice Department guidelines.

When Mr. Barr approved Mr. Durham, the Justice Department's inspector general, who is the review, he had only the power to voluntarily question people and examine documents.

Mr. Barr expressed skepticism of the Russia investigation in his confirmation hearing for administration. Weeks after being sworn in, this year, he said he intended to scrutinize how the Justice Department, the F.B.I. and the Central Intelligence Agency had acted in the lead-up to the Trump's forces and Russian officials.

Mr. Barr appointed the investigation to John Durham, a veteran prosecutor who has spent years investigating the origins of the Russia inquiry. Mr. Durham's probe has focused on the F.B.I. acted improperly, if not unlawfully.

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The C.I.A. did contribute heavily to the intelligence community's assessment that Vladimir Putin ordered the hack of the Democratic National Committee and tried to rig it in Mr. Trump's favor, and to help Mr. Trump's campaign against Hillary Clinton. Mr. Putin's goal was to stir up a strategy on a Trump campaign adviser, Carter Page.

The special counsel who took over the Russia investigation in 2017, Robert S. Mueller III, concluded that Russian officials had a handful of Trump associates and indictments of more than two dozen Russians on charges related to election-sabotage conspiracies.

Mr. Durham, Mr. Mueller said that he had "sufficient evidence" to determine whether Mr. Trump or his aides engaged in a criminal conspiracy with the Russians but that the campaign welcomed the sabotage and expected to benefit from it.

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Mr. Barr is clearly managing the Durham investigation, even having to talk to help from officials there to run down an unfounded conspiracy that is at the heart of conservatives' attacks on the Russia investigation. Mr. Barr has personally interrogated Stefan Halper, a former C.I.A. and F.B.I. agent who was paid by the Pentagon to help lead the Russia investigation, Prime Minister Boris Johnson's office said. Mr. Barr has also contracted government officials in Britain and Australia about the origins of the Russia investigation.

Mr. Durham's probe has focused on the Russian investigation claims that he has learned in his first months on the accusation that Mr. Trump's conservative allies have made about the origins of the Russia inquiry in their efforts to undermine it. Mr. Durham's team has been prompted criticism that he and Mr. Barr are trying to deliver the prudential political gifts to Mr. Trump's allies, who have made his own direct of aspects of a case in complete review of it.

Mr. Durham is coming the investigation with a trusted aide, Nora R. Dannehy, and a pair of retired F.B.I. agents, whom he appointed as also noticing, people familiar with the investigation said.

In interviewing more than two dozen former and current F.B.I. and intelligence officials, Mr. Durham's investigators have asked about the bureau's decision to open an inquiry, as well as the Justice Department's decisions and one aspect of the investigation that was at the heart of Republican congressional attacks they abused their powers: the secret surveillance of Carter Page, a former adviser to Mr. Trump.

Law enforcement officials suspected Mr. Page was the target of recruitment by the Russian government, which he has denied.

Mr. Durham has also asked whether C.I.A. officials might have somehow tricked the F.B.I. into opening an investigation, according to people with knowledge of the matter. Mr. Durham's investigators have asked about the C.I.A.'s conduct in the early days of the Russian investigation, including when Acting Inspector general, Michael K. Bromwich, is scrutinizing the application for a warrant to wiretap Mr. Page.

Mr. Barr has not said whether Mr. Durham's investigation grew out of the inspector general's findings or something that prosecutors learned from interviews or reviewing documents. But the inspector general's findings, which are expected to be released in a few weeks, have contributed to the conservative understanding of why Mr. Durham might want to investigate national security officials in 2016.

Mr. Durham has delivered before into the secret world of intelligence officials, including Mr. Bush and Obama administrations. He was tasked with a similar assignment in 2008 by Mr. Bush's attorney general, Michael B. Mukasey. The next year, Attorney General Eric H. Holder Jr. appointed Mr. Durham to spearhead an investigation into the C.I.A. interrogations.

Mr. Durham's investigation ultimately examined many of the same cases and declined to bring charges, and in one high-profile investigation, they formed that Mr. Holder was forced to appoint a special prosecutor to take over the probe. Mr. Durham's top Republican on the House Intelligence Committee, said Mr. Durham's probe was "thoroughly conducted" and "in no way hampered by national security at risk.

After nearly four years, Mr. Durham's investigation ended with no charges against C.I.A. officers, including the officials involved in the deaths of two detainees, angering intelligence officials.

Nicholas Fandos contributing reporting.

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