



# PROTECT the PUBLIC'S TRUST

VIA ELECTRONICAL MAIL

November 3, 2022

Henry J. Kerner  
U.S. Office of Special Counsel  
Hatch Act Unit  
1730 M Street NW, Suite 218  
Washington, DC 20036  
Fax: (202) 254-3700  
hatchact@osc.gov

The Honorable Stuart F. Delery  
Counsel to the President  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, DC 20500

## **Re: Request for Investigation of Hatch Act Violations by Karine Jean-Pierre**

Dear Mr. Kerner and Ms. Remus:

Yesterday, November 2, 2022, White House Press Secretary Karine Jean-Pierre (Ms. Jean-Pierre) made comments disparaging President Biden's political opponents as "mega MAGA Republican officials who don't believe in the rule of law," among other derogatory statements. Ms. Jean-Pierre made these statements during an official press briefing, in her role as Press Secretary, from her podium in the James S. Brady Press Briefing Room bearing the White House's name, standing in front of the White House's insignia. Her statements were clearly made in her role as an employee of the White House and appear to be political in nature, seeking the defeat of her political opponents in the Republican party in the upcoming general election less than a week away on November 8.

As if to ensure Americans connected the dots, just hours later Ms. Jean-Pierre's boss issued a prime-time address warning the nation that "democracy is under attack" and "on the ballot," while attacking "MAGA Republicans." While the President is not subject to the Hatch Act, Karine Jean-Pierre is and must be held accountable.

Pursuant to your authority under 5 U.S.C. § 1216(a)(1), we request that the Office of Special Counsel promptly investigate Ms. Jean-Pierre's conduct as a potential Hatch Act violation based on her use of her official position to advocate for the defeat of a political party. We request that you promptly investigate these potential violations and immediately intervene to ensure that the government officials do not abuse their official authority in an attempt to influence the results of the impending 2022 general election.



# PROTECT the PUBLIC'S TRUST

## I. Who We Are

Protect the Public's Trust is a group of retired and former public servants dedicated to the idea that public service is a public trust. Too often, we have seen high level public servants play fast and loose with the rules that other government officials have to live with, creating the perception of a two-tiered system and resulting in an unprecedented dip in trust in our elected officials. We believe that the American people deserve a government that is impartial, free from conflicts of interest, and operates without political interference or favoritism. Our goal is to ensure our nation fulfills that promise.

## II. Background

Ms. Jean-Pierre has served as the White House Press Secretary since May 13, 2022. As part of her official duties, she regularly holds press briefings from the White House briefing room, provides exclusive information to reporters, facilitates interviews with senior White House and Administration officials, and serves as the official spokesperson for President Biden and the Biden Administration.

On November 2, 2022, as part of her opening remarks during an official press briefing, Ms. Jean-Pierre, in part, stated:<sup>1</sup>

[A]s you all know, the President has long talked about our nation being at an inflection point. He has been clear: Democracy is under assault, and we cannot pretend otherwise. The President will continue to call attention to the threat to democratic integrity and to public safety posed by those who deny the documented truth about election results and those who seek to undermine public faith in our system of government. **Unfortunately, we have seen mega MAGA Republican officials who don't believe in the rule of law. They refuse to accept the results of free and fair elections, and they fan the flames of political violence through what they praise and what they refuse to condemn.** It remains important for the President to state strongly and unequivocally that violence has no place in our democracy. He believes other leaders of both parties on both sides have a responsibility to communicate this very clearly as well. [emphasis added]

These statements were made less than week prior to the November 2022 general election.

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<sup>1</sup> *Press Briefing by Press Secretary Karine Jean-Pierre*, The White House (November 2, 2022), <https://www.whitehouse.gov/briefing-room/press-briefings/2022/11/02/press-briefing-by-press-secretary-karine-jean-pierre-november-2-2022/>



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## III. The Law

The Hatch Act prohibits federal executive branch employees from using their official authority or influence to interfere with or affect the result of an election.<sup>2</sup> The Act applies to any individual, other than the President or Vice President, “employed or holding office in . . . an Executive agency other than the Government Accountability Office.”<sup>3</sup>

Under the Hatch Act, a federal employee may not engage in “political activity” while on duty or “in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof.”<sup>4</sup>

Under federal regulations, “political activity means an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.”<sup>5</sup>

The penalty structure for violations of the Hatch Act by federal employees includes removal from federal service, reduction in grade, debarment from federal employment for a period not to exceed 5 years, suspension, reprimand, or a civil penalty not to exceed \$1,000.<sup>6</sup>

## IV. Analysis

Ms. Jean-Pierre indisputably falls under the restrictions of the Hatch Act as an employee of an executive agency other than the President and Vice President. And Ms. Jean-Pierre’s conduct undertaken in her official capacity as the White House Press Secretary is indisputably regulated by the Hatch Act’s prohibitions engaging in political activity while on duty or in a room or building occupied in the discharge of official government duties. Ms. Jean-Pierre has acknowledged as much herself on repeated occasions when informing the media that she is incapable of answering certain questions or is limited in her responses under the Hatch Act. During Ms. Jean-Pierre’s press briefing from October 17, 2022 alone she mentioned the restrictions imposed on her by the Hatch Act seven separate times:<sup>7</sup>

“So, I have to be careful because I can’t – we do – we do respect the Hatch Act and – our strict limits from here. So, I want to be very, very [] careful.”

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<sup>2</sup> 5 U.S.C. § 7323(a)(1).

<sup>3</sup> 5 U.S.C. § 7322(1)(A).

<sup>4</sup> 5 U.S.C. §§ 7324(a)(1)-(2).

<sup>5</sup> 5 C.F.R. § 734.101.

<sup>6</sup> *See* 5 U.S.C. § 7326(1)-(3).

<sup>7</sup> *Press Briefing by Press Secretary Karine Jean-Pierre*, The White House (October 17, 2022), <https://www.whitehouse.gov/briefing-room/press-briefings/2022/10/17/press-briefing-by-press-secretary-karine-jean-pierre-october-17-2022/>



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“So, again, because it’s connected to the – to his election, I want to be really careful of the Hatch Act. It’s something that we do respect and adhere to here.”

“Again, I want to be very careful. There is the Hatch Act. I am restricted on what I can say from the podium and from here.”

“I know. I’m just being very careful. Hatch Act. We respect that here.”

“Again, I’m trying to be very careful here on what I can say. I am restricted at the podium because of the Hatch Act.”

“So, again, just to be very mindful of the Hatch Act, I don’t [interrupted by an interjection from the media].”

As an executive branch employee regulated by the Hatch Act, Ms. Jean-Pierre’s comments from November 2, 2022, regarding so-called “mega MAGA Republican[s]” appear to be a clear and direct violation of the Hatch Act’s prohibition against the use of her official position to interfere with or affect the result of an election. At the time of Ms. Jean-Pierre’s comments, the 2022 general election was less than one week away on November 8. In the shadow of the impending election in which Ms. Jean-Pierre’s and President Biden’s political party is participating, Ms. Jean-Pierre’s deeply disparaging comments directed at her party’s political opposition can only be understood as an inappropriate attempt to influence the vote.

Standing from her official podium in the Brady Press Briefing Room, in her role as Press Secretary, Ms. Jean-Pierre attempted to persuade the voting public that her political opponents in the Republican party “don’t believe in the rule of law,” “refuse to accept the result of free and fair elections,” and “fan the flames of political violence through what they praise and what they refuse to condemn.” The ferocity and severity of such statements about the Republican Party are a clear and passionate exhortation to voters not to vote for Republicans. Such an attempt to sway an election is a direct violation of the Hatch Act’s prohibition against employees like Ms. Jean-Pierre using their office to influence an election or seek the success or failure of a political party.

Even if Ms. Jean-Pierre’s comments are understood to refer to only a subset of the Republican party – the so-called “mega MAGA Republicans” – rather than the party as a whole, Ms. Jean-Pierre’s comments still constitute a violation of the Hatch Act. The Hatch Act does not preclude activity seeking only the success or failure of political parties as a whole, but of particular candidates for partisan political office and partisan political groups as well.<sup>8</sup> The “mega MAGA Republicans” that Ms. Jean-Pierre referred to are a collection of Republican candidates who have made no secret of their support for

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<sup>8</sup> U.S. Office of Special Counsel, Federal Employee Hatch Act Information (Last Accessed November 2, 2022), <https://osc.gov/Services/Pages/HatchAct-Federal.aspx#tabGroup12>.



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and from former President Trump. Accordingly, Ms. Jean-Pierre's comment is clearly targeted at identifiable candidates for partisan political office and also at the broader "MAGA" partisan political group with which they are affiliated. There is no avoiding or skirting around the obvious purpose of Ms. Jean-Pierre's derogatory remarks as a direct appeal to voters not to support a particular partisan political group in the upcoming election due to the supposed dangers that these political opponents of Ms. Jean-Pierre's represent.

Accordingly, Ms. Jean-Pierre has violated the Hatch Act by her inappropriate use of her position to advocate for the defeat of her partisan political opponents and should receive a commensurate penalty under 5 U.S.C. § 7326 of disciplinary action such as removal from her role or a reprimand and a civil penalty not to exceed \$1000.

## V. Conclusion

We ask the Office of Special Counsel to immediately investigate these allegations and prevent Ms. Jean-Pierre from engaging in any further activity to use her authority to influence the results of the election and to impose penalties as appropriate. There should not be a two-tiered system of government ethics that subjects prominent White House Officials to a lower standard of scrutiny than other average public servants.

Sincerely,

Michael Chamberlain  
Director  
Protect the People's Trust