

# FRIDAY NIGHT HALF- ASSED MASSACRE: THE ATTEMPTED FIRING OF SDNY'S BERMAN

I'm not Marcy – I won't do justice to this developing story the way she would especially after midnight. But I need to put something up to capture Attorney General Bill Barr's bizarre Friday evening attempt to fire Geoffrey Berman, U.S. Attorney for Southern District of New York.

Some background leading up to this evening's half-assed Friday Night Massacre:

1990-1994 – Berman served as Assistant U.S. Attorney for the Southern District of New York while Rudy Giuliani was U.S. Attorney.

TBD – Berman became a partner at Greenberg Traurig; he ran their New Jersey office.

January 2016 – Giuliani joined Greenberg Traurig as global chair of cybersecurity and crisis management practices.

November 2016 – Trump asks SDNY's then-USA Preet Bharara to stay on.

March 2017 – Attorney General Jeff Sessions asks all 46 holdover USAs from Obama administration to resign. Bharara declined; he also refused a phone call from Trump. He was fired the next day.

May 2017 – Giuliani supported Berman for U.S. Attorney though he was originally considered for New Jersey.

Who will be New Jersey's next U.S. attorney?

President Donald Trump is deciding between one of Gov. Chris Christie's criminal

defense attorneys and another high-powered Jersey-based lawyer at a New York firm connected to former New York Mayor Rudolph Giuliani, according to a source with direct knowledge of the process.

Vying for the coveted job are Craig Carpenito, who defended the governor during the Bridgegate scandal and its fallout, and Geoffrey Berman, who runs the New Jersey office of the New York law firm Greenberg Traurig, where Giuliani is global chair of its cybersecurity and crisis management practices.

The candidates' dueling mentors reveal an across-the-Hudson struggle for Trump's ear.

Trump interviewed Berman and others for the USA-SDNY role.

January 2018 – Sessions announced Berman's appointment to USA-SDNY.

April 2018 – Berman remained un-nominated by Trump, continuing to work as an interim acting USA; because the 120-day appointment period expired, the Chief Judge of the Southern District of New York ordered Berman appointed as USA-SDNY under 28 U.S.C Section 546(d), until Trump nominated a USA-SDNY and they were approved by the Senate.

Which bring us to Friday evening's drama...

At 9:15 p.m. ET, the Justice Department issued an announcement of appointment via press release over Twitter.



Justice Department  
@TheJusticeDept

Attorney General William P. Barr on the Nomination of Jay Clayton to Serve as U.S. Attorney for the Southern District of New York



Attorney General William P. Barr on the Nomination of Jay Clayton to  
[justice.gov](https://www.justice.gov)

9:15 PM · Jun 19, 2020 · [Twitter Web App](#)

Associated Press and other media outlets immediately began reporting that Berman had been fired.



The Associated Press  
@AP

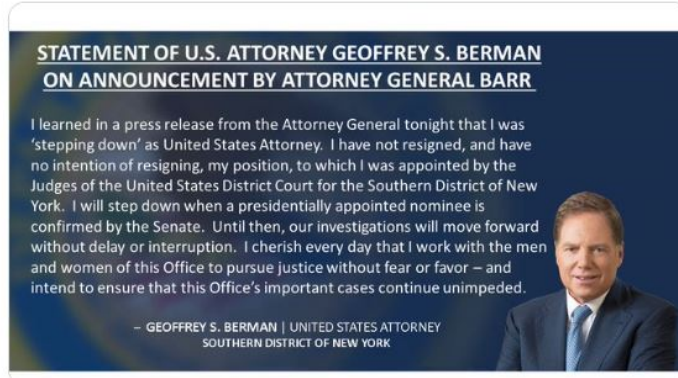
BREAKING: Geoffrey Berman, the U.S. attorney who oversaw key prosecutions of allies of President Trump and an investigation into Trump's personal lawyer Rudy Giuliani, is resigning.



DOJ tries to oust US attorney investigating Trump allies  
WASHINGTON (AP) — The Justice Department moved abruptly Friday night to oust Geoffrey S. Berman, the U.S. attorney in Manhattan overseeing key ...  
[apnews.com](https://apnews.com)

9:48 PM · Jun 19, 2020 · [SocialFlow](#)

At 11:14 p.m. ET, Berman issued a statement via Twitter:



11:14 PM · Jun 19, 2020 · Twitter Web App

Berman's status rests on the interpretation of 28 USC 546(d), the law says Berman remains until fired AND replaced by a Senate-approved nominee for USA>

#### 28 U.S. Code § 546. Vacancies

U.S. Code	Notes
	<p>(a) Except as provided in subsection (b), the Attorney General may appoint a United States attorney for the district in which the office of United States attorney is vacant.</p> <p>(b) The Attorney General shall not appoint as United States attorney a person to whose appointment by the President to that office the Senate refused to give advice and consent.</p> <p>(c) A person appointed as United States attorney under this section may serve until the earlier of—</p> <ol style="list-style-type: none"><li>(1) the qualification of a United States attorney for such district appointed by the President under <a href="#">section 541 of this title</a>; or</li><li>(2) the expiration of 120 days after appointment by the Attorney General under this section.</li></ol> <p>➔ (d) <u>If an appointment expires under subsection (c)(2), the district court for such district may appoint a United States attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court.</u></p> <p><small>(Added Pub. L. 89-554, § 4(c), Sept. 6, 1966, 80 Stat. 618; amended Pub. L. 99-646, § 69, Nov. 10, 1986, 100 Stat. 3616; Pub. L. 109-177, title V, § 502, Mar. 9, 2006, 120 Stat. 246; Pub. L. 110-34, § 2, June 14, 2007, 121 Stat. 224.)</small></p>

How convenient that the House of Representatives Judiciary Committee had already called a hearing for next Wednesday June 24 about political influence on law enforcement, with Department of Justice employees John Elias and Aaron Zelinsky scheduled to appear as whistleblowers before the committee.

HJC's committee chair Rep. Jerry Nadler has already tweeted that Berman would be invited to appear before the same committee hearing.

It wouldn't take much to move from this hearing to a vote for an impeachment inquiry inquiry

into Bill Barr's work as Attorney General – there was plenty of reason to pursue impeachment before Friday night's half-assed massacre.

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There's a lot to unpack here. Have at it.

I'm publishing this now and will add some additional follow-up material here in the morning, including Berman's recusal from the Cohen case, the investigation into Giuliani, and Berman's effort to distance SDNY from the White House.

*This is an open thread.*