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OVERSIGHT OF THE U.S. DEPARTMENT OF JUSTICE: REPORT BY SPECIAL COUNSEL ROBERT S. MUELLER III ON THE INVESTIGATION INTO RUSSIAN INTERFERENCE IN THE 2016 PRESIDENTIAL ELECTION; AND RELATED MATTERS

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

THIRD SESSION

MAY 2, 2019

Serial No. 116-18

Printed for the use of the Committee on the Judiciary



Available via: *http://judiciary.house.gov*

U.S. GOVERNMENT PUBLISHING OFFICE
44–616 WASHINGTON : 2019

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OVERSIGHT OF THE U.S. DEPARTMENT OF JUSTICE: REPORT BY SPECIAL COUNSEL ROBERT S. MUELLER III ON THE INVESTIGATION INTO RUSSIAN INTERFERENCE IN THE 2016 PRESIDENTIAL ELECTION; AND RELATED MATTERS

Thursday, May 2, 2019

HOUSE OF REPRESENTATIVES

COMMITTEE ON THE JUDICIARY
Washington, DC

The Committee met, pursuant to call, at 9:03 a.m., in Room 2141, Rayburn House Office Building, Hon. Jerrold Nadler [chairman of the committee] presiding.

Present: Representatives Nadler, Lofgren, Jackson Lee, Cohen, Johnson of Georgia, Deutch, Cicilline, Swalwell, Lieu, Raskin, Jayapal, Demings, Correa, Scanlon, Garcia, Neguse, McBath, Stanton, Dean, Mucarsel-Powell, Escobar, Collins, Chabot, Gohmert, Jordan, Buck, Ratcliffe, Gaetz, Biggs, McClintock, Lesko, Reschenthaler, and Armstrong.

Staff Present: Aaron Hiller, Deputy Chief Counsel; Arya Hariharan, Oversight Counsel; David Greengrass, Senior Counsel; John Doty, Senior Advisor; Lisette Morton, Director, Policy, Planning, and Member Services; Madeline Strasser, Chief Clerk; Moh Sharma, Member Services and Outreach Advisor; Susan Jensen, Parliamentarian/Senior Counsel; Will Emmons, Professional Staff Member; Amy Rutkin, Chief of Staff to Representative Nadler; Brendan Belair, Minority Staff Director; Bobby Parmiter, Minority Deputy Staff Director and Chief Counsel; Jon Ferro, Minority Parliamentarian; Carlton Davis, Minority Chief Oversight Counsel; Ashley Callen, Minority Oversight Counsel; and Erica Barker, Minority Clerk.

Chairman NADLER. The Judiciary Committee will come to order.

Without objection, the chair is authorized to declare recesses of the Committee at any time.

We welcome everyone to today's hearing on "Oversight of the U.S. Department of Justice: Report by Special Counsel Robert Mueller III on the Investigation into Russian Interference in the 2016 Presidential Election; and Related Matters."

I will now recognize myself for an opening statement.

Attorney General Barr has informed us that he will not appear today. Although we worked to accommodate his concerns, he objects to the prospect of answering questions by staff counsel and to the possibility that we may go into executive session to discuss certain sensitive topics.

Given the Attorney General's lack of candor before other congressional committees, I believe my colleagues and I were right to insist on the extended questioning. To my knowledge, not even the Ranking Member was opposed to the idea of moving into closed session, if necessary.

Even if Democrats and Republicans disagree on the format of this hearing, we must come together to protect the integrity of this Chamber. The Administration may not dictate the terms of a hearing in this hearing room.

The challenge we face is bigger than a single witness. Late last night, the Department of Justice wrote to inform us that they will ignore our subpoena for the unredacted Mueller report and the underlying evidence. They have made no meaningful attempt at accommodating that subpoena, which was due yesterday. The letter references the Attorney General's offer to 12 Members of Congress—12 out of 435—to look behind some but not all of the redactions provided that we agree not to discuss what we see with our colleagues and that we leave our notes behind at the Department of Justice.

It is urgent that we see the documents we have subpoenaed. I cannot agree to conditions that prevent me from discussing the full report with my colleagues and that prevent the House from acting on the full report in any meaningful way. An accommodation designed to prevent us from taking official action is no accommodation at all.

Every member of this committee, Democrat and Republican alike, should understand the consequences when the executive branch tells us that they will simply ignore a lawful subpoena from Congress.

If left unchecked, this Act of obstruction will make it that much harder for us to hold the executive branch accountable for waste, fraud, and abuse, or to enact legislation to curb that kind of misconduct or any kind of misconduct no matter which party holds this Chamber or the White House at a given moment.

The challenge we face is also bigger than the Mueller report. If all we knew about President Trump were contained in the four corners of that report, there would be good reason to question his fitness for office. The report is not where the story ends. In the days since the Department of Justice released a redacted version of the report, President Trump has told Congress that he plans to fight all our subpoenas.

The average person is not free to ignore a congressional subpoena, nor is the President. His promise to obstruct our work extends far beyond his contacts with the Russian Government and allegations of obstruction of justice. The President is also preventing us from obtaining information about voting rights, ACA litigation, and his cruel family separation policy, among other matters.

The challenge we face is also not limited to this committee. In recent weeks, Administration witnesses have simply failed to show

for properly noticed depositions. The Secretary of the Treasury continues to ignore his clear statutory obligation to produce the President's tax returns. The President's private attorneys sued Chairman Cummings in his personal capacity in an attempt to block the release of certain financial documents.

Ladies and gentlemen, the challenge we face is that the President of the United States wants desperately to prevent Congress, a coequal branch of government, from providing any check whatsoever to even his most reckless decisions. He is trying to render Congress inert as a separate and coequal branch of government.

The challenge we face is that if we don't stand up to him together today, we risk forever losing the power to stand up to any President in the future. The very system of government of the United States, the system of limited power, the system of not having a President as a dictator is very much at stake.

The Attorney General of the United States is sworn to uphold the Constitution as our Nation's chief law enforcement officer. He has an obligation to do everything in his power to warn the President of the damage he risks and the liability he assumes by directly threatening our system of checks and balances and of limited government. Sadly, the Attorney General has failed in that responsibility. He has failed to check the President's worst instincts. He has not only misrepresented the findings of the special counsel, but he had also failed to protect the special counsel's investigation from unfair political attacks. He has himself unfairly attacked the special counsel's investigation. He has failed the men and women of the Department of Justice by placing the needs of the President over the fair Administration of justice. He has even failed to show up today.

Yes, we will continue to negotiate for access to the full report for another couple of days, and, yes, we will have no choice but to move quickly to hold the Attorney General In contempt if he stalls or fails to negotiate in good faith.

The Attorney General Must make a choice. Every one of us must make the same choice. That choice is now an obligation of our office. The choice is simple. We can stand up to this President in defense of the country and the Constitution and the liberty we love, or we can let the moment pass us by. I do not—and we have seen in other countries what happens when you allow such moments to pass by. I do not know what Attorney General Barr will choose. I do not know what my Republican colleagues will choose. I am certain that there is no way forward for this country that does not include a reckoning with this clear and present danger to our constitutional order.

History will judge us for how we face this challenge. We will all be held accountable in one way or the other. If he does not provide this Committee with the information it demands and the respect it deserves, Mr. Barr's moment of accountability will come soon enough.

I now recognize the Ranking Member of the Judiciary Committee for his opening statement.

Mr. COLLINS. Thank you, Mr. Chairman.

Let's be very clear. There is only one reason and one reason only at this point we are not being able to fulfill our constitutional role

of oversight, and that is Chairman's demands that were played out yesterday.

We could have had a hearing today. What bothers me the most about this is not only did, in standing for the questions that were discussed and the issues that have been discussed between me and Chairman, not only did he take the ability of the American people to hear again from Bill Barr, he took our ability to hear from Bill Barr today. To protect? Maybe. Because some didn't feel like they could ask proper questions? Maybe they wanted more staff questions? Who knows?

Yesterday we found this, that he claims that he wants staff to question the Attorney General because the 5-minute–per-member is not enough. Yet we approved a motion yesterday that said we could do a whole hour, an extra hour, between Chairman and myself. He could have took one of these fabulous Members that he has and some excellent attorneys on his side, some of the best—he could have given them all 30 minutes, and they could have questioned the Attorney General any way they wanted to.

Instead, we go back to a circus political stunt to say we want it to look like an impeachment hearing because they won't bring impeachment proceedings. That is the reason. Take whatever you want to take. You can go out and have press conferences. You could say it from this dais. You could say whatever you want to have. The reasons Bill Barr is not here is because the Democrats decided they didn't want him here today. That is the reason he is not here.

You could have done anything else you wanted. What is amazing to me is to say that he is scared of answering questions, scared—you can disagree with the Attorney General all you want. For yesterday, he sat for over almost 6 hours in the Senate voluntarily answering questions, even on a second round that was taken up by Democrats who wanted to ask more questions.

You can agree, did he do good; did he do bad? It doesn't matter. We are not getting that opportunity today because the stunt and the circus continues over here.

All we had to do—we agreed to more time. We could talk about executive session. But no. For some reason, for some purpose, except the optics of something they can't do or don't want to do right now, they wanted to have a staff member ask questions.

I said before, if that staff member wants to ask questions so desperately, run for Congress. Put a pin on. Find a committee. I could continue on and on about the issue that we have here and the impeachment agenda, and whatever you want to have, and saying that he is blackmailing this committee; he is terrified to come before this committee. I think yesterday he proved he is not terrified to sit before anybody, especially the Senate, which they actually extended the question time on.

He answered the question, whether you like the question or not. As my chairman told me yesterday, it is not a matter of whether we agree or disagree on this. We have the motion; we move the motion; we do the motion. You can agree with the Attorney General or disagree with the Attorney General, but not hearing from him is a travesty for this Committee today.

I would be remiss if I also did not mention the largest tragedy of this day that actually was from yesterday.

The chairman just stated a few moments ago that we can't let moments pass, and I agree completely, because what happened yesterday on this dais was a travesty. When you do not recognize Members for valid motions, when you call things dilatory, questioning the motives of what Members are doing it for. I have sat on this Committee for 6 years. I have sat through hours of motions to strike the last word, of giving other Members on the minority side more time. One of my biggest concerns I ever had with Chairman Goodlatte is, why do you let it continue? Just call the previous question. On two occasions last Congress, he did on resolutions of inquiry, after almost 6 to 7 hours of debate.

The question I have here is not what Bill Barr is scared of? My question is, what are the Democrats scared of? They don't want Bill Barr here today. They have had the report. They have read it. They don't like what is in it. The chairman won't even go look at what the Attorney General offered him. It is pretty amazing to me he wants to go in executive session and ask questions about it, but he won't go read it.

Now, you can go read it and ask for more. Here is the problem today, and this problem from yesterday is not over. If the majority wants to run a Committee in which minority rights do not matter, parliamentary procedure does not matter—we saw it on full display yesterday—it will not continue. We will continue this exercise, and we will exercise what we have as a minority, which is the minority right to ask questions, to make motions. Because at the end of the day, unless we have forgotten, Mr. Chairman, you have got more votes than we do; you will get what you want. Just like we sat on this side and you sat on this side and got to spend hours talking about whatever you wanted to talk about while Chairman Goodlatte sat there and let you do it. All you want to do—and the question that bothered me the most yesterday was: We have got time; we got to get on to another bill.

Timing does not trump minority rights. There is not a member on this dais that should say it is not. Freshman Members or anybody else who is here for the first time, that is not how this Committee works. If you don't believe me, ask Chairman Sensenbrenner. For three times, three times was chairman of this subcommittee. He laid it out clearly yesterday.

When we degrade Members on my side, calling Mrs. Lesko's amendment ridiculous, calling ours dilatory, that is just wrong and should offend everybody on this dais.

Mr. Chairman, this is wrong. The tragedy of today is not that you have an empty chair, not that you have props. You can call the Attorney General whatever you want. I am reminded of sticks and stones kind of quote. What really bothers me today is the travesty of what happened to minority rights yesterday. There is not a member of the Democrats who were on this Committee last year that can honestly look me in the face and say you all were not treated much better by a chairman who actually followed the rules than we were treated yesterday.

I yield back.

Chairman NADLER. Thank you, Mr. Collins.

Ordinarily, at this point, I would introduce the witness. Instead we will conclude this proceeding.

I just want to say we didn't choose not to have Mr. Barr come. He chose. We cannot permit him or anybody in the Administration to dictate the manner in which we function. This does not include our inquiry into the Attorney General's handling of the Mueller report nor his conduct before Congress.

Mr. GAETZ. Point of parliamentary inquiry.

Chairman NADLER. Nor does it conclude our efforts—

Mr. GAETZ. I seek recognition—

Chairman NADLER. —of the entire report and its underlying materials.

We will not hear from the Attorney General today. This Committee intends to obtain the information that it needs to conduct its constitutional oversight and legislative responsibilities. We will defend the prerogatives of Congress. We will defend the rights of the American people to know what is going on. We will defend the constitutional scheme of equal and coordinate branches of government. We will make sure that no President becomes a monarch. We need the information without delay. The hearing is adjourned.

[Whereupon, at 9:20 a.m., the Committee was adjourned.]

