



Background: H. Res. __, the Meadows Resolution – June 27, 2018

Late Monday, the Rules Committee posted notice of “emergency consideration” of H. Res. __, *Insisting that the Department of Justice fully comply with the requests, including subpoenas, of the Permanent Select Committee on Intelligence and the subpoena issued by the Committee on the Judiciary relating to potential violations of the Foreign Intelligence Surveillance Act by personnel of the Department of Justice and related matters.*

This resolution is a deliberate escalation in the running conflict between House Republicans and Deputy Attorney General Rod Rosenstein.

Because Attorney General Jeff Sessions is recused from all matters involving the 2016 campaigns, the Deputy Attorney General is charged with overseeing both the Majority’s request for documents related to the Clinton email investigation and the Special Counsel’s investigation into connections between the Russian government and the Trump campaign. To the extent that the Department has not already satisfied the Majority’s request for this information, it is unlikely to do so by July 6. **Members should view this resolution as a predicate for further action against the Deputy Attorney General and the Special Counsel’s investigation.**

State of Play on the Document Requests

Much of what passes for “oversight” in the 115th Congress is related to substantiating President Trump’s various conspiracy theories: the Clinton investigation was “rigged;” President Obama was a “bad/sick man” who “wiretapped” Trump Tower; the Special Counsel’s investigation is a “witch hunt” run by “13 Angry Democrats”—who must be stopped, even though there was “no collusion” between the Trump campaign and the Russian government.

In the Judiciary and Intelligence committees, these efforts have led to two subpoenas. On March 22, Chairman Goodlatte issued a subpoena for nine categories of information related to these topics—although this subpoena was issued in violation of Committee rules and is therefore unenforceable. On April 30, Chairman Nunes issued his own subpoena—a copy of which he refuses to provide to the Minority.

Although Congress is entitled to much of the information that the Majority has requested, the committees are not entitled to certain highly sensitive materials—including, but not limited to, evidence related to an ongoing criminal investigation, the scoping documents outlining specific lines of inquiry in an ongoing criminal investigation, and the identities of confidential human sources still working undercover in the field.



In conflict after conflict, House Republicans have demanded this kind of information. When the Department gives in to these demands, the information is promptly leaked to the White House and to the press. When the Department refuses, House Republicans threaten Department leaders with contempt and impeachment. It is a strategy designed to undermine the credibility of key investigators, and to hedge against the outcome of the Special Counsel’s investigation.

Two Versions of the Same Setup

The Meadows Resolution (H. Res. __) is a new “sense of Congress” resolution. It is similar to, but different from, the Meadows Resolution of Inquiry (H. Res. 938) that passed the Judiciary Committee yesterday.

Although neither resolution has the force of law, both represent an attempt to force the Department of Justice—and, in particular, Deputy Attorney Rosenstein—to “fully comply” with subpoenas issued by the Judiciary and Intelligence committees by the end of next week.

H. Res. 938 – the Meadows Resolution of Inquiry

On Tuesday, the House Judiciary Committee considered H. Res. 938—a straightforward resolution of inquiry that requested documents from the Department of Justice and the FBI in connection with several investigations related to the 2016 election.

At the markup, Mr. Jordan introduced an amendment in the nature of a substitute to H. Res. 938. The amendment included more than 40 “whereas” clauses, many of which cherry-picked facts and otherwise mischaracterized aspects of the Justice Department and FBI investigations. It also leaned heavily on the March 22 subpoena issued by Chairman Goodlatte to the Department of Justice—a subpoena that is not valid, because the Chairman did not provide proper notice to the Ranking Member as required by Committee rules.

The Jordan Amendment closed with four “resolved” clauses purportedly “compelling the Department of Justice” to: (i) fully comply with a subpoena issued by the Judiciary Committee on March 22, 2018; (ii) fully comply with an April 30, 2018 subpoena issued by the House Intelligence Committee; (iii) provide all documents requested by Congress; and (iv) provide Members of Congress and designated staff with “full access to un-redacted documents.”



At the appropriate time, Ranking Member Nadler raised a point of order to the Jordan Amendment on the basis that it was non-germane and not written as a proper resolution of inquiry. Representative Chabot, serving as acting Chair, correctly sustained Ranking Member Nadler’s point of order based on the recommendation of the Committee parliamentarian. Rather than moving to table this motion, as has been the Committee’s practice, the Committee immediately considered Mr. Jordan’s motion to appeal the ruling of the Chair. The motion to appeal was agreed to by a vote of 16 to 13. We are aware of no prior instance of the Majority’s voting to overturn a correct parliamentary ruling by its own Chairman.

Chairman Goodlatte voted “present” on this motion—but only when prompted to do so by a Democratic member who noticed the Chairman standing in the hallway outside of the Committee room. The Committee later approved H. Res. 938 along party lines.

H. Res. __ – The Meadows Resolution

This new Meadows Resolution appears to be based on H. Res. 938, as amended, but it is a new and different legislative vehicle. The introductory “whereas” clauses have been refined—although many still rely on inaccurate or misleading information. The “resolved” clause has been substantially simplified:

“Resolved, that the House of Representatives insists that, by not later than July 6, 2018, the Department of Justice fully comply with the requests, including subpoenas, of the Permanent Select Committee on Intelligence and the subpoena issued by the Committee on the Judiciary relating to potential violations of the Foreign Intelligence Surveillance Act by personnel of the Department of Justice and related matters.”

This demand is narrower than the full scope of the existing subpoenas. It applies only to items “relating to potential violations of the Foreign Intelligence Surveillance Act . . . and related matters,” which presumably refers to the theory that the Department of Justice and the FBI deliberately misled the Foreign Intelligence Surveillance Court when the government applied for a surveillance order on Trump campaign advisor Carter Page. The theory is baseless—which we know because the Department has already substantially complied with requests for this category of information.

Nevertheless, **the Meadows Resolution is a setup.** The Majority appears to be laying a pretext for a contempt citation, or worse, against the Deputy Attorney General—not because he has refused to provide documents, but because undermining his credibility also undermines the Special Counsel’s investigation.