

April 17, 2018

Chairman Bob Goodlatte  
House Judiciary Committee  
United States House of Representatives

Ranking Member Jerrold Nadler  
House Judiciary Committee  
United States House of Representatives

Re: Endorsement of the Special Counsel Transparency Act of 2018

Dear Chairman Goodlatte and Ranking Member Nadler,

The undersigned organizations and individuals committed to government openness and accountability write to express our support for the Special Counsel Transparency Act of 2018 – legislation that would provide an important safeguard for preserving the work of the Justice Department’s investigation into the 2016 election. In the event that the Trump Administration dismisses Special Counsel Robert Mueller, the bill would demand transparency by requiring that the DOJ provide Congress with imperative information and help protect the evidence associated with the inquiry.

The Special Counsel Transparency Act of 2018 would require Mueller, or any future special counsels, to produce a report on the results of their investigation to Congress within two weeks of being removed. It also requires the Attorney General to submit a separate report detailing the status of the inquiry at the time of the firing. If the Attorney General is recused, as is the case with Jeff Sessions stepping aside in the Mueller investigation, the next most senior official in the Justice Department must deliver the report. Each report must include all evidence of criminal activity that implicates the president, anyone in the executive office, or any individual appointed by the president. Grand jury information must also be included, which is particularly important in order for Congress to carry out its oversight role and to ensure the public eventually sees the evidence behind the investigation.

Without proactive legislation, Congress or the public might never see the results of the special counsel’s inquiry. Mueller was appointed under the Justice Department’s regulations for special counsels, which do not require a report to Congress of impeachable offenses, and restrict the special counsel’s ability to make information public. Under this framework, the special counsel is required to provide the attorney general with a “confidential report explaining the prosecutions or declination decisions reached by the Special Counsel.”<sup>i</sup> If the special counsel finds that “other governmental action outside the criminal justice system might be appropriate,” he is empowered only to “consult with the Attorney General with respect to the

appropriate component to take any necessary action.”<sup>ii</sup> While Mueller has made some information available through publicly available indictments,<sup>iii</sup> without a specific requirement for disclosure of the final report there is a risk that the public will never have access to the full truth.

There is a high level of public interest in knowing the full extent of foreign influence in our country’s democratic election process, and any potential collusion or wrongdoing our elected officials may have engaged in to sway public opinion. Moreover, history tells us that Congress must remain diligent to protect the integrity of investigations involving presidents and their inner circles.<sup>iv</sup> With the ongoing possibility that President Trump could fire special counsel Robert Mueller, there is reasonable cause for concern that key documents could be destroyed or evidence lost.<sup>v</sup>

It is critically important that Congress work to advance legislation to ensure that all government records related to the Justice Department’s inquiry into possible Russian interference in the 2016 U.S. election are being properly preserved and transferred to the appropriate officials. We request your support for strong legislation to mandate the protection of this information, and to ensure maximum public transparency on the results of the investigations.

If you have any questions or would like to discuss this issue further, please contact Lisa Rosenberg, Executive Director of Open the Government, at [rosenberg@openthegovernment.org](mailto:rosenberg@openthegovernment.org) or 202-332-6736.

### Organizations

Citizens for Responsibility and Ethics in Washington  
Defending Rights & Dissent  
Demand Progress Action  
Open the Government  
Public Citizen  
Project On Government Oversight  
Stand Up Republic  
Sunlight Foundation

### Individuals

Norm Ornstein, American Enterprise Institute\*  
Sarah Chayes, Carnegie Endowment for International Peace\*

\*For identification purposes only

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<sup>i</sup> 28 CFR Section 600.8(c), Notification and reports by the Special Counsel: <https://bit.ly/2EGYHOU>.

<sup>ii</sup> *Ibid*, Section 600.4(c), Jurisdiction.

<sup>iii</sup> See “Unsealed Documents in Special Counsel Mueller’s Investigation [Updated]”, Just Security, April 3, 2018: <https://bit.ly/2GYFJFa>.

<sup>iv</sup> The destruction of evidence during the Watergate investigations provides a historical warning that safeguards need to be in place to protect information gathered in similar investigations. See, Elaine Kamarck, “What exactly was Watergate and is it happening again?”, Brookings Institute, March 7, 2017, <https://brook.gs/2ofwjQa>.

<sup>v</sup> Experts warn that the FBI raid of President Trump’s personal lawyer Michael Cohen indicates there may be concerns that evidence might be destroyed or otherwise not turned over, even with a lawful request. See, Michael German, “What Does the Michael Cohen Raid Mean for the Mueller Investigation?”, The Brennan Center, April 10, 2018: <https://bit.ly/2GWnq7X>.