



May 17, 2017

Re: Open to the Public the Now-Closed Senate Briefing by Deputy Attorney General Rod Rosenstein on the Firing of the FBI Director and the President's Reported Attempt to End an FBI Investigation

Dear Senator:

The American Civil Liberties Union strongly urges you to open to the public the now-closed Senate briefing by Deputy Attorney General Rod Rosenstein, scheduled for tomorrow at 2:30 p.m. Mr. Rosenstein had a central role in President Donald Trump firing FBI Director James Comey, and is the Department of Justice official overseeing: the investigation of Russian interference in the U.S. presidential election, alleged Trump campaign collusion with Russia, and any attempts to interfere with the investigation. The American people have just as much of a right as senators do to hear from Mr. Rosenstein on questions that go to the very heart of our democracy and our constitutional system of checks and balances.

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There can be no greater need for transparency than in determining whether the President or his top officials and advisors colluded with a foreign government to interfere with an election, or attempted to influence, thwart, or end an ongoing investigation. The actions of the President have thrown the country into a constitutional crisis, and Mr. Rosenstein had an important role in facilitating one of those actions, namely, the firing of Mr. Comey only days after Mr. Comey briefed Mr. Rosenstein on the ramping up of the Russia/Trump FBI investigation.

Tomorrow's closed-door briefing is critical to understanding the scope of the constitutional crisis. Beyond Mr. Rosenstein's role in the firing of Mr. Comey, he inexplicably retains authority over the FBI investigation and any resulting prosecutions. Moreover, he and Attorney General Jeff Sessions are interviewing candidates to serve as Interim FBI Director or permanent Director, to replace the director who he and Mr. Sessions had a role in firing. All Americans have the right to hear:

- Mr. Rosenstein's description of his own actions related to the firing of Mr. Comey;
- his explanation for why he has retained authority over the Russia/Trump FBI investigation;
- the scope of Mr. Sessions' recusal, including whether Mr. Sessions is also recused from any investigation of Paul Manafort for any transactions with foreign governments;

- whether he will either retain Mr. McCabe to direct the FBI, or at least provide Mr. McCabe sole authority for the FBI over the Russia/Trump investigation, for the duration of the investigation.

Opening the doors to the Senate briefing will give all Americans a better opportunity to be informed citizens, ready to participate in the democratic process of figuring out how to resolve the constitutional crisis caused by the President and his administration and supporters. Even if you need to have an additional closed session for the purpose of discussing classified material that cannot be discussed in an open briefing, the Senate should hold as much of the briefing as possible in open—with the doors open and the cameras on.

There is absolutely no reason why the Senate should be blocking out all Americans, and meeting solely behind closed doors with Mr. Rosenstein. The closest precedent to the current events was the Saturday Night Massacre during Watergate, and the resulting congressional inquiry, the Senate Watergate Committee, held exhaustive public hearings with high-level administration officials. Even today, Senate Intelligence Committee Chairman Richard Burr invited Mr. Comey to testify before his committee in both *open* and closed session. If the Intelligence Committee is ready to hold an open hearing with the former FBI Director, surely the full Senate can open the doors and turn on the cameras for its briefing by the Deputy Attorney General, even if it has to hold the last portion of the hearing in private to discuss classified material that cannot be discussed in open session.

The ACLU strongly urges you to open the doors to the briefing, and allow all Americans to be part of our democracy, especially in this moment of crisis. Thank you for your attention to this request, and we look forward to your response. Please let us know if you have any questions.

Sincerely,



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