

BUSINESS MEETING: COHEN TRANSCRIPT RELEASE

Monday, May 20, 2019

U.S. House of Representatives,  
Permanent Select Committee on Intelligence,  
Washington, D.C.

The committee met, pursuant to call, at 5:34 p.m., in Room HVC-304, Capitol Visitor Center, the Honorable Adam Schiff (chairman of the committee) presiding.

Present: Representatives Schiff, Himes, Sewell, Carson, Speier, Quigley, Castro, Heck, Welch, Maloney, Demings, Krishnamoorthi, Nunes, Conaway, Turner, Wenstrup, Stewart, Stefanik, and Hurd.



THE CHAIRMAN: A quorum being present, the committee will come to order.

Without objection, the chair is authorized to declare a recess at any time. Our sole item for the business meeting today is the committee's public release of transcripts of closed interviews of Michael Cohen conducted on February 28 and March 6, 2019, and certain exhibits related to or presented during his testimony.

As a reminder, we are now in open session, so discussion will be limited to unclassified matters. It is my intention that the business meeting will be conducted entirely in open session. Should members desire to engage in classified discussion, we can turn to the closed session before concluding the meeting.

In connection with the committee's investigation into foreign interference into the U.S. political process and obstruction of the committee's investigation, Michael Cohen voluntarily testified before this committee in closed session on February 28 and March 6, 2019. Mr. Cohen testified about a variety of topics, including plans in motion during the 2016 Presidential campaign to build a Trump Tower in Moscow; the dangling of Presidential pardons to Cohen as he adhered to President Trump's desired narrative; obstruction of this committee's investigation; and his own criminal convictions for fraud, campaign finance crimes, and making false statements to this committee.

Although Mr. Cohen was never an official member of the Trump Presidential campaign, transition team, or administration, he worked for Mr. Trump for 10 years, both at The Trump Organization as executive vice president and special counsel; was deeply involved in assisting Mr. Trump during the campaign; and then served as the personal attorney for Mr. Trump -- for President Trump after the inauguration.

While the committee will allow the public to judge Mr. Cohen's credibility for itself, I note that both the U.S. Attorney's Office for the Southern District of New York and the

Special Counsel's Office have adjudged Mr. Cohen's information to be credible and corroborated by other evidence in the possession of those offices.

The release of Mr. Cohen's transcripts is an important step toward promoting the committee's goal of transparency, where appropriate, and will assist the public's understanding of the interplay between the President's business interests and political aspirations and actions, both during the campaign and during the Trump Presidency.

We are following the same process this committee undertook in the 115th Congress with regard to the public release of the transcripts of Carter Page and Erik Prince. In this instance, as in those, the committee's director of security and committee staff have redacted the transcripts and exhibits for personally identifiable information and other sensitive information.

Following tonight's vote, the redacted transcripts and exhibits will be made available to the public on the Committee Repository. All but one of the exhibits will be released to the public. The exhibit that will not be released is minority exhibit 1, which is the entire transcript of Mr. Cohen's testimony before the committee on October 24, 2017. That transcript along with 52 other transcripts were sent in November 2018 by this committee to the Office of the Director of National Intelligence to conduct a classification review before public release.

Although it has been 6 months since the committee provided the transcripts to ODNI, ODNI has not yet completed its classification review. Committee staff have been in negotiations with ODNI to accelerate the review process. And I am hopeful that the 53 transcripts, including Mr. Cohen's October 2017 transcript, will soon be ready for public release.

I will now yield to the ranking member for any statement he wishes to make.

MR. NUNES: Thank you.

I believe witness transcripts from the committee's investigations should be made public. And in the last Congress, the committee voted to publish 53 transcripts after forwarding them to ODNI for classification review.

I cannot, however, vote in favor of today's motion to release these two transcripts and associated exhibits. The majority is suddenly rushing to publish these transcripts -- without an ODNI classification review -- after having done nothing with them for approximately 3 months. Although the ODNI review process has been unbearably slow, its preliminary review of the committee's 53 transcripts has identified classified information in nine transcripts that were previously marked unclassified, including Mr. Cohen's October 2017 transcript.

The committee is not an original classification authority and is in no position to determine whether certain redactions made to these transcripts will properly protect sources and methods. Therefore, the only reason I see for not sending these transcripts to the ODNI would be for the majority to advance a partisan agenda. I urge my colleagues to join me in voting no today, and I yield back the balance of my time.

DR. WENSTRUP: Mr. Chairman, I have an amendment.

THE CHAIRMAN: Dr. Wenstrup will be recognized for the purpose of an amendment.

DR. WENSTRUP: Thank you, Mr. Chairman.

I move that, prior to the public release of Michael Cohen's February 28 and March 6, 2019, interview transcripts and certain exhibits, the committee consult the Office of the Director of National Intelligence for an appropriate classification review, just as we did for the previous 53 transcripts.

As the ranking member noted in his statements and opening remarks, the committee is not an original classification authority, as defined in Executive Order 13526.

To me, it would be irresponsible of the committee to unilaterally release this material without first seeking the guidance of ODNI, especially given the fact that Michael Cohen's October 2017 unredacted transcript has been tentatively classified as secret/NOFORN.

Given there is no urgency to release these transcripts publicly, the ODNI review will provide all of us with the peace of mind that the committee does not accidentally or intentionally spill classified information to the public. I think if we go through the proper procedure, we can all sleep a little bit better knowing we are doing our jobs correctly.

The National Security Act of 1947, as amended, empowers the Director of National Intelligence to protect intelligence sources and methods from unauthorized disclosures, not Congress. It is for these reasons that I offer this amendment, and I urge my colleagues to support my amendment.

I yield back the balance of my time.

THE CHAIRMAN: I thank the gentleman for yielding back the balance of his time.

Let me comment, if I could, on the gentleman's motion, and then we can take it up for a vote.

Mr. Cohen never had clearances or access to classified information. Nevertheless, the transcripts and exhibits were carefully reviewed by the committee's security director and staff, and all sensitive information has been redacted. This, by the way, is the same process that was followed by the Republicans during the last Congress. Dr. Wenstrup and, I think, every other member of the Republican then-majority voted in favor of the release of Carter Page's and Erik Prince's transcripts without review by the ODNI.

Moreover, ODNI's tentative redactions to Cohen's 2017 transcript relate to one particular topic based on member questions. Even though that same topic was raised by Cohen in these transcripts and not any committee members, that same topic has been redacted in an abundance of caution. Based on the thorough review process of a lay

witness who has never served in the government, further review by ODNI is unnecessary and, I think we have already seen, will cause undue delay. The ODNI has had half a year to do a simple declassification review and still has not completed it.

Moreover, the majority was deeply distressed to learn that ODNI sought to release the transcripts to the White House prior to returning them to the committee for some form of a review or signoff by the White House. It is not the purview of the President or anyone in the White House to be making decisions about what the Intelligence Committee releases of its own interviews, and we cannot countenance that kind of potential interference by the White House.

Does any other member wish to be heard on the gentleman's motion?

DR. WENSTRUP: Mr. Chairman?

THE CHAIRMAN: Yes.

DR. WENSTRUP: May I speak?

Well, then I am a little concerned from this standpoint, that Michael Cohen's October 2017 unredacted transcript has been tentatively classified as secret/NOFORN. Now that is enough for me to tell me whether he got classified information one way or another, and then it may be part of this interview. I would not want to take the irresponsible action of just releasing that against what the ODNI has said may be secret or NOFORN.

We have a job to do here. We have a job to do it correctly. And I don't see any reason to rush. And if we want to put some pressure on ODNI to get this done, we should do that. But at the same time, again, it is up to the Director of National Intelligence to protect intelligence sources and methods from unauthorized disclosures, not Congress.

So you may have a certain degree of confidence, but you are not the ODNI, and neither am I. And that is why I feel that we should go through the procedure, which we

have done in the past.

I yield back.

THE CHAIRMAN: I thank the gentleman for yielding back.

First of all, as you know, Mr. Cohen occupied no position requiring a security clearance and did not receive classified information. The redactions that are proposed tentatively in the 2017 transcript do not involve his testimony as much as they involve questions that were asked of him. Those topics have been redacted from this transcript out of an abundance of caution, and we are not releasing the 2017 transcript until we have a signoff on that.

But I will say this with respect to the member's concern over the release of transcripts without an ODNI review, that did not concern the then-majority when it released Erik Prince's transcript or Carter Page's. So it is a newfound concern with process that appears to be at work here.

Would any other member like to be heard before we take up a motion on the amendment by Dr. Wenstrup?

MR. TURNER: Mr. Chairman?

THE CHAIRMAN: Yes, Mr. Turner.

MR. TURNER: Mr. Chairman, I am very eager for Mr. Cohen's testimony to be public. I think there is a number of things that will be shocking to those who read that testimony, including the manner in which he was questioned after having had so much prep time with the minority's staff prior to testifying. I think it will be interesting to people to get that transparency of what really occurred.

But I am very concerned also that the transcript needs to be released because of the fake news aspect of those who will have access to the transcript and who will lie about what might be in it. I don't think it is just a serendipitous coincidence that today, at 5:07



p.m., The Washington Post issued an article that says: Cohen told lawmakers Trump attorney instructed him to falsify claim -- to falsely claim Moscow project ended in January 2016.

It says: Michael Cohen, President Trump's former long-time personal attorney, told a House panel during closed-door hearings earlier this year that he had been instructed by a Trump lawyer to falsely claim in a 2017 statement to Congress that negotiations to build a Trump Tower in Moscow ended in January 2016, quote, "according to people familiar with the testimony."

The concern here obviously is the implication you were either in the closed-door meeting or you have had access to the transcripts and the House Intelligence Committee to be a person "according to people familiar with the testimony." And so what I am concerned about is this continuing leak of information that happens without any ability for people to look at the information itself. So I am absolutely convinced that this testimony has to be made public so we can just end this process of people leaking information and claiming what is in it.

But I am going to support Mr. Wenstrup's -- Dr. Wenstrup's motion because it isn't an abundance of caution to end the practice or procedures that we normally have. Now the fact that you are saying that you have already redacted some information because of your concern shows that this committee should not just rely on your personal opinion as to whether or not everything has been properly done. We should go through the processes and procedures. And even before you said it, I was going to say it that our concern, obviously, especially after the over 10 hours that your staff spent with Mr. Cohen in private before he testified, that in the questions themselves, there was a number of times where there were things that were referenced that would be based upon people having classified access to information that could be of a concern that should perhaps be reviewed.

So I am going to support Dr. Wenstrup's motion. I am certainly very, very concerned about the leaks that are obviously occurring from either those who were in the closed-door hearing or have had access to the information according to The Washington Post and certainly implore the chairman that it is not an abundance of caution to cast caution aside. It is an abundance of caution to follow the proper processes and procedures. I would think that, since his staff had spent so much private time in New York with Mr. Cohen, that you might have a higher degree of concern of what was in the transcripts themselves. So I will be supporting Dr. Wenstrup's motion.

THE CHAIRMAN: Well, I thank the gentleman for his argument for transparency prior to his vote against transparency.

MR. TURNER: Mr. Chairman, I am voting for transparency, but I am voting for a process that protects our --

THE CHAIRMAN: I haven't recognized you. But I appreciate the argument very much. And I also appreciate the gentleman's concern with the staff proffer sessions. It would be a little more credible if the gentleman had spent more time in the actual interview with Mr. Cohen. A number of Republican members were gone for an entire day of Mr. Cohen's testimony, and at some points in the testimony, not a single Republican member could be bothered to --

MR. TURNER: Mr. Chairman, I love the fact that you --

THE CHAIRMAN: Mr. Turner --

MR. TURNER: -- subsequently important, which is --

THE CHAIRMAN: Mr. Turner, you are not recognized.

Would anyone else like to be heard?

MR. CONAWAY: Mr. Chairman?

MR. CHAIRMAN: Mr. Conaway.

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MR. CONAWAY: Well, Mr. Chairman, I understand the staff has done the review for the -- and I don't have a mistrust of the staff, but should something be in these transcripts that should have been redacted, is it my understanding that the chairman will take personal responsibility for the release of that classified information and not blame the staff?

THE CHAIRMAN: Mr. Turner -- Mr. Conaway, we had the security director review the transcripts. We had the minority staff, as well as majority staff.

MR. CONAWAY: I know. I trust them. Just, you know, a question, should something come out of this that should not have gotten out, will the chairman take the fall, or will the staff be asked to take the fall?

THE CHAIRMAN: I will take the same responsibility, Mr. Conaway, that you have taken for the release of the Prince transcripts and the Carter Page transcripts and the minority report conclusion that the Russians did not intend to help Donald Trump, which has now been repudiated by Mr. Mueller so --

MR. CONAWAY: Just for clarification there, our response was that the tradecraft with respect to the analysis, the -- by the analytical tradecraft did not support it. We did not opine one way or the other on whether or not the Russians wanted Trump or wanted to play with Clinton. We simply said the tradecraft didn't support it. It certainly could have been that, and Mueller came to that conclusion. But you and I had a conversation about this last week, and I failed to point out to you that we really just talked about the tradecraft on analysis and not the conclusion itself.

But, anyway, if you are taking full responsibility for it, then I yield back.

THE CHAIRMAN: Mr. Conaway, your public comments of your members contradicted an issue with the tradecraft and went well beyond to question whether in fact the Russians were even attempting to help Donald Trump --

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MR. CONAWAY: This report is in writing.

THE CHAIRMAN: Mr. Quigley is recognized.

MR. QUIGLEY: Mr. Chairman, I want to recognize that hypocrisy caucus meets later, not today, and that the now infamous, I believe they call it the Nunes memo, its release took place despite the fact that the Intelligence Community and the Justice Department label it different things, but two of the words were "dangerous" and "reckless" and clearly released for political purposes. So if we are putting everything out --

Mr. Turner: Would the gentleman yield? It also --

MR. QUIGLEY: If we are going to put things out on the record that are dangerous and reckless for political purposes, let's make sure you get in line first.

Thank you.

THE CHAIRMAN: The question has been called on Dr. Wenstrup's motion --

MR. STEWART: Mr. Chairman, I would like to --

THE CHAIRMAN: -- by --

MR. STEWART: Mr. Chairman, are you not going to allow me to speak? I haven't had --

THE CHAIRMAN: Mr. Stewart, you are recognized.

MR. STEWART: Thank you.

I feel you have wasted an opportunity, Mr. Chairman, because we really supported the release of this information. The only thing we are asking is that we do so responsibly. We are not the ones who classified this secret. The authorizer's organization has told you that this is classified secret. And you are saying, Mr. Chairman --

THE CHAIRMAN: Mr. Stewart --

MR. STEWART: Mr. Chairman, wait, you can respond. And you are saying that you are superseding their judgment on this.

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And to Mr. Quigley's comment, no one classified the Nunes memo as secret. It was never claimed to be secret. Now you might argue over its characterization, but it was never claimed -- no one claimed it was secret.

What I would like to know is, is this a precedent you are setting? Do you have other classified documents that you intend to release prior to the classification review? Is this something we are going to see again, or is this the only time? Will you assure us this will be the only time that you will release documents that are classified at this time secret, that the professionals have said, "This is secret" -- and your staff, who has no authority to make that determination, it doesn't matter if they are right or wrong; they have no authority to make this determination. And they are superseding the professional organizations. I would like to know, do you intend to do this again, or will this be the only time that this committee will release secret information on your vote?

THE CHAIRMAN: Mr. Stewart, the premise of your question is false. This document has not been classified as secret. You are referring to the 2017 transcript, which we are not releasing, a portion of which was redacted by the Intelligence Community. That same subject matter has been redacted in the transcript that we are going to release. So your premise is incorrect. There has been no classification of this document. This is a lay witness with no access to classified information. And so the premise of your question is --

MR. STEWART: Mr. Chairman, I just disagree with your characterization. My understanding is that there is information within this that has been classified secret by professionals who that is their job.

THE CHAIRMAN: That is not correct.

Would anyone else like to be heard?

MR. NUNES: Mr. Chairman, I just want to make sure before we vote that the

members on our side of the aisle do know that there have been references made to what the committee did last Congress with Mr. Page and Mr. Prince. Those were open hearings held down in these spaces. So there was no vote to release those transcripts.

The only transcript that we released was Mr. Simpson's transcript. And if you recall, that was after Senator Feinstein leaked Simpson's transcripts from the Senate side, and then there was a push on your part and your members' part last year. And we decided, because Simpson's had already been broke -- Senate rules were broken and Simpson's transcripts were released, we decided to honor your request at the time, which was to release Mr. Simpson's transcript. So you are right; it was done. It was done once, but it wasn't with regard to Mr. Page or Mr. Prince.

I yield back.

THE CHAIRMAN: I thank the gentleman for yielding.

So the hypocrisy and consistency only applies to one transcript, rather than three. But let me just point out, if I could, that the then-majority did make redactions to Erik Prince's testimony. It did so because it believed that subject matter that may be classified was discussed. That was a decision made by the same security director who has reviewed these transcripts. That was the decision made without submitting those to the ODNI for declassification review.

Would anybody else like to be heard prior to voting on the motion?

MR. TURNER: Mr. Chairman?

THE CHAIRMAN: Mr. Turner, I don't want to --

MS. STEFANIK: Mr. Chairman?

THE CHAIRMAN: Yes.

Ms. Stefanik: May I be recognized?

I yield to Mr. Turner.

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MR. TURNER: Thank you.

Mr. Chairman, since we now have the statement from our former chairman as to what had happened with Mr. Prince's and Carter Page's testimony, rather than attacking your Republican members for pointing out that what you spoke was inaccurate, perhaps you might want to take time to correct your statement for the record so it is clear that we don't have you misstating something so clearly in the record now. So I would be glad to yield you time to correct your statement that was inaccurate previously.

THE CHAIRMAN: I thank the gentleman for yielding.

According to the ranking member, the hypocrisy only extends to one of the three transcripts, but in point of fact, a unilateral decision was made by the then-Republican majority to have open testimony involving witnesses that are arguably --

MR. TURNER: Mr. Chairman, did you misspeak?

THE CHAIRMAN: Excuse me -- arguably, if the same logic applies, could have covered classified information, and, in fact, the majority found it necessary to redact prior to public release a transcript that was of an interview conducted in open session. So it is a distinction without much of a difference.

In any event, the motion has been seconded.

The roll will be called on Dr. Wenstrup's motion to delay release of the transcripts and provide them instead to ODNI for a declassification review.

The clerk will call the roll.

THE CLERK: Chairman Schiff?

THE CHAIRMAN: No.

THE CLERK: Mr. Himes?

MR. HIMES: No.

THE CLERK: Ms. Sewell?

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MS. SEWELL: No.

THE CLERK: Mr. Carson?

MR. CARSON: No.

THE CLERK: Ms. Speier?

MS. SPEIER: No.

THE CLERK: Mr. Quigley?

MR. QUIGLEY: No.

THE CLERK: Mr. Swalwell?

[No response.]

THE CLERK: Mr. Castro?

MR. CASTRO: No.

THE CLERK: Mr. Heck?

MR. HECK: No.

THE CLERK: Mr. Welch?

MR. WELCH: No.

THE CLERK: Mr. Maloney?

MR. MALONEY: No.

THE CLERK: Ms. Demings?

MS. DEMINGS: No.

THE CLERK: Mr. Krishnamoorthi?

MR. KRISHNAMOORTHY: No.

THE CLERK: Ranking Member Nunes?

MR. NUNES: Aye.

THE CLERK: Mr. Conaway?

MR. CONAWAY: Aye.



THE CLERK: Mr. Turner?

MR. TURNER: Aye.

THE CLERK: Dr. Wenstrup?

DR. WENSTRUP: Aye.

THE CLERK: Mr. Stewart?

MR. STEWART: Aye.

THE CLERK: Mr. Crawford?

[No response.]

THE CLERK: Ms. Stefanik?

MS. STEFANIK: Aye.

THE CLERK: Mr. Hurd?

MR. HURD: Aye.

THE CLERK: Mr. Ratcliffe?

[No response.]

THE CLERK: Mr. Chairman, there are 7 ayes and 12 noes.

THE CHAIRMAN: The motion is -- the amendment is defeated. The motion is now -- the vote is now on the chairman's motion to release the Cohen transcripts.

The clerk will call the roll.

THE CLERK: Chairman Schiff?

THE CHAIRMAN: Aye.

THE CLERK: Mr. Himes?

MR. HIMES: Aye.

THE CLERK: Ms. Sewell?

MS. SEWELL: Aye.

THE CLERK: Mr. Carson?

MR. CARSON: Aye.

THE CLERK: Ms. Speier?

MS. SPEIER: Aye.

THE CLERK: Mr. Quigley?

MR. QUIGLEY: Aye.

THE CLERK: Mr. Swalwell?

[No response.]

THE CLERK: Mr. Castro?

MR. CASTRO: Aye.

THE CLERK: Mr. Heck?

MR. HECK: Aye.

THE CLERK: Mr. Welch?

MR. WELCH: Aye.

THE CLERK: Mr. Maloney?

MR. MALONEY: Aye.

THE CLERK: Ms. Demings?

MS. DEMINGS: Aye.

THE CLERK: Mr. Krishnamoorthi?

MR. KRISHNAMOORTHI: Aye.

THE CLERK: Ranking Member Nunes?

MR. NUNES: No.

THE CLERK: Mr. Conaway?

MR. CONAWAY: No.

THE CLERK: Mr. Turner?

MR. TURNER: No.

THE CLERK: Dr. Wenstrup?

DR. WENSTRUP: No.

THE CLERK: Mr. Stewart?

MR. STEWART: No.

THE CLERK: Mr. Crawford?

[No response.]

THE CLERK: Ms. Stefanik?

MS. STEFANIK: No.

THE CLERK: Mr. Hurd?

MR. HURD: No.

THE CLERK: Mr. Ratcliffe?

[No response.]

THE CLERK: Mr. Chairman, there are 12 ayes and 7 noes.

THE CHAIRMAN: The motion carries, and the transcript will be posted in accordance with committee rules.

That concludes the business session, and we will now move to our scheduled oversight hearing.

[Whereupon, at 5:55 p.m., the committee was adjourned.]