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JONATHAN TURLEY **(https://jonathanturley.org/)**

Res ipsa loquitur - The thing itself speaks



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[October 9, 2019 \(https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/\)](https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/)

White House Issues Defiant Letter Refusing To Cooperate In Impeachment Proceedings

(<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/>)



The White House continued along its ill-considered strategy of refusing to cooperate in an impeachment inquiry. I have previously written that Speaker Nancy Pelosi has made a fundamental error

(<https://jonathanturley.org/2019/10/07/casual-or-cowardly-pelosi-takes-dangerous-road-to-impeachment/>) in not securing a vote of the House

to commence an impeachment investigation. However, the letter issued by the White House counsel

(<https://www.nytimes.com/interactive/2019/10/08/us/politics/white-house-letter-impeachment.html>) further undermines the case for executive privilege arguments and could reinforce obstruction allegations in any final articles of impeachment.

The letter rightfully raises concerns over the lack of a House vote of the body and the secrecy of proceedings. The Democrats have limited Republicans in their effort to question witnesses and secure material. However, that is not a legitimate basis for refusing to cooperate or supply clearly material evidence.


The letter emphasizes a lack of due process in the proceedings. The Constitution does not guarantee such rights as confrontation. Indeed, it does not expressly require anything other than a vote of the House on impeachment and a majority threshold for any referral of the matter to the Senate for trial.


Once again, past impeachments (like the one that I handled) have allowed for witness examinations and some adversarial process. That should be the case here. There is clearly an effort by Democrats to prevent serious questioning of witnesses by Republican members. That is not a good practice and undermines the impeachment investigation.

However, none of that justifies the position of the White House. This is a constitutional function of the highest order for Congress. There is a legitimate basis for congressional investigation under both its oversight and impeachment authority. If proven, these allegations of self-dealing could be a basis for articles of impeachment. A President cannot simply pick up his marbles and leave the game because he does not like the other players. A refusal to cooperate with a constitutionally mandated process can itself be an abuse of power.

Worse yet, the letter again undermines the executive privilege arguments that will be key to any court fight. I discussed yesterday (<https://jonathanturley.org/2019/10/08/trump-tweet-undermines-privilege-claims-for-barring-testimony/>) how Trump's tweet about wanting an ambassador to testify (but blocking him because he does not trust the committee) is the death knell for a privilege claim. A president cannot withhold material evidence because he does not like the other party in control of a house of Congress. It must be based on a claim that disclosure, even to a co-equal branch, would undermine national security or diplomatic relations or essential confidential communications. This letter repeats that flawed premise for refusing to cooperate. It is a curious move since tweets by Trump could be dismissed (as the Justice Department did in the immigration litigation) as not reflective of the real position of the government. Now, the White House counsel himself has embraced those same arguments.

The letter is another avoidable self-inflicted wound by a White House that seems intent on counter-punching itself into an impeachment. There are defenses here as well as viable privilege arguments. This letter however is eviscerating those defenses with a reckless abandon.

 [Twitter \(https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/?share=twitter&nb=1\)](https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/?share=twitter&nb=1)

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367 thoughts on “White House Issues Defiant Letter Refusing To Cooperate In Impeachment Proceedings”

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PROCEEDINGS/COMMENT-PAGE-3/#COMMENTS](https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-3/#comments))**



Karen S says:

October 10, 2019 at 12:17 PM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1889944>).

One of the attorneys for the “whistleblower” admitted that his client had met with current presidential candidates. While the attorney claimed that all of his client’s accusations have been verified, in fact, some of them have already been disproven.

When’s the book tour coming?

<https://www.foxnews.com/politics/whistleblower-lawyer-acknowledges-client-had-contact-with-presidential-candidates>

(<https://www.foxnews.com/politics/whistleblower-lawyer-acknowledges-client-had-contact-with-presidential-candidates>)

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Anonymous says:

October 10, 2019 at 9:25 AM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1889898>).

One of the attorneys that assisted the anonymous “whistleblowers” accusing President Donald Trump of conspiring with foreign leaders to interfere in the next U.S. presidential election used to report directly to former director of national intelligence James Clapper.

<https://thefederalist.com/2019/10/09/anti-trump-whistleblower-attorney-worked-directly-for-james-clapper/>

(<https://thefederalist.com/2019/10/09/anti-trump-whistleblower-attorney-worked-directly-for-james-clapper/>)

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Wally says:

October 10, 2019 at 7:58 AM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1889875>).

New Fox poll just released this morning (10/10) shows 51% of respondents want trump impeached and removed from office.

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Paul C Schulte says:

October 10, 2019 at 9:17 AM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/Comment-page-4/#comment-1889895>).

Wally – I heard the poll was +15 Democrats and they didn't modify the poll for that. However, what is really interesting is the internals of the poll, very few Republicans and Independents are split.

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YNOT says:

October 10, 2019 at 11:26 AM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1889926>).

Cite, cite, just more BS from the schoolteacher.

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Karen S says:

October 10, 2019 at 12:36 PM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1889957>).

Paul is absolutely right. Here is a link to the actual poll.

<https://www.scribd.com/document/429534764/Fox-News-Poll-results-October-6-8-2019>

<https://www.scribd.com/document/429534764/Fox-News-Poll-results-October-6-8-2019>)

1003 randomly selected respondents.

48% Democrat

33% Republican

12% Independent

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Paul C Schulte says:

October 10, 2019 at 6:47 PM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1890093>).

Karen S – thanks for having my back. 😊

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lin says:

October 10, 2019 at 8:18 PM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1890127>).

Thank you for pointing this out. I have been disappointed in the good professor's failure to discuss the reality of "polls" as well as "poll-herding" and failures to disclose the ratio/numbers of political affiliations of those polled.

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Wally World says:

October 11, 2019 at 4:26 AM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1890209>).

That Wally is an impersonator...

Just sayin'

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Wally World says:

October 11, 2019 at 3:37 AM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1890208>).

Wth is this 🙄

Hey buddy, no taking names.

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David B. Benson says:

October 10, 2019 at 3:22 AM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1889858>).

Stuff on Informed Comment is worthwhile.

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Anonymous says:

October 10, 2019 at 1:49 AM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1889854>).

Prof. Turley

What is Trump's goal ?

If you think that his objective is to win an impeachment conflict by using the law to shield as much as possible from Congress – then you might be right.

But I do not think that Trump really cares that much about keeping documents etc. from Congress.

I think his goal is not a legal one, but a political one.

The house can impeach on any grounds it wants.

But the more partisan and more hysterical the house sounds the less ability it has to impeach and the less meaningful impeachment is if it occurs.

I think Trump's objective is to discredit the media, the left, and the democrats. And I think he is happy to use this faux impeachment to do so.

Democrats are not playing by the rules – Trump is not playing by the rules.

More and more stories come out each day – most do not get much airplay on the MSM but some do. More damaging allegation about Biden with each day, more information that undermines the whistleblower with each day.

Guliani was bragging that he is happy to go on CNN or MSNBC to have some host or another try to beat him up. He openly threatened to drop some new document or damaging story with every single interview.

A lot of what is occurring seems to resemble the Project Veritas Accorn Sting.

The story starts quiet and PV releases just enough to get the MSM, the Left, etc to commit to some counter story – and then PV releases a bit more to discredit that, and a new counter story and a new drip.

We learn today that Mueller likely lied to congress. We learn that Comey was spying on Lynch. We learn that Ukraine has been investigating Biden since February – long before the Trump Zelensky Call. We learn it is hard to keep up.

Look around neither Trump nor Giuliani are acting as if they have been knocked back on their heels. To a large extent they are acting as if they are relishing this fight.

Put simply. I do not think Trump cares about the executive privilege argument that you are fixated on.

He will work to thwart house democrats – for the purpose of frustrating them and getting them to act like fools – and they are obliging.

While I was more impressed with the WH letter – even legally than you are. I do not think the purpose is legal.

Trump and the media and the left and the democrats and the “deep state” have been playing a gigantic game of high stakes poker since before Trump was elected.

The “argh! Trump” hand is pretty simple – the little damaging they currently have on Trump, Plus what they can spin of anything they can get someone to testify and the hope that Trump is hiding something.

Well the media, the left and democrats have been telling us there is some great damaging story about Trump in hiding for 3 years, and it has not yet surfaced

This whole mess is the boy who cried wolf on an epic scale.

Conversly we do not know Trump’s hand.

The Ukraine story has damn near taken Biden out of the race, it is unlikely he will recover – and democrats are doing this to themselves – unless you think the Whistleblower is a secret Trump supporter.

It looks like Trump is facing Warren – and that has to be his dream opponent.

More damage was done to Trump politically be withdrawing from Syria than this whole Impeachment nonsense.

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Prairie Rose says:

October 10, 2019 at 6:28 AM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1889867>).

Well said.

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V Whitaker says:

October 10, 2019 at 6:36 AM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1889868>).

This is a narrative I see a lot among those that support this president; the idea that he is, knowingly, directing happenings to his advantage. The supposition being that President Trump understand the ins and outs of political machinations and is going to 'beat them at their own game'. I don't see it. What I see is a man that is ill suited for the office making absurd statements and – as Turley and others have observed – continue to self-inflict wounds that are the result of unfiltered hubris.

Had Trump not insisted on a personal interview at the beginning of the first investigation into 'Russian influence' (Mueller) and admitted the truth about why he dumped Comey that situation would most likely have lost steam way before it did. Trump just can't help himself because his ego refuses to allow anyone to appear to 'one-up-him'. He has to have the last word – even if that 'word' is severely detrimental to his position.

Having watched Donald Trump's career since he became a name in NY, I am always stunned at the folks that believe him or anything that he says. He speaks 'off-the-cuff', or, as he likes to portray it 'his gut', his statements are littered with euphemisms, '...like never been seen before', 'believe me', '...a lot of people don't know this but...', 'I was told by a good friend...' OR, 'I was told by someone who is an expert...'

The Democrats may look like fools – frankly, ALL of Congress is looking pretty foolish and self-serving to me – but they aren't alone; the president seems to be just as foolish. In my mind, any speculation that Donald Trump is somehow orchestrating this situation to his benefit seems to be an example of forcing the facts to fit a narrative that makes him appear more savvy than he actually is. He is, however, good at attempting to divert attention from whatever debacle he's engaged in – now we have the unexpected withdrawal of the US support of the Kurds.

Trump set the tone for his Administration during his campaign; he simply labels everything that is critical of him as 'fake news', 'witch hunt' or throws out some dismissive insult. His parrot, Giuliani can't keep his 'facts' straight and I suspect that Tump throws him at the Press just to muddy the waters. Rudy is so off his game its embarrassing to watch him attempt a coherent interview. But, then he's useful to Trump for that very reason.

The Democrats may be gunning for this President; but he's the one that insists on wearing a target on his back.

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Prairie Rose says:

October 10, 2019 at 9:11 AM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1889892>)

V Whitaker,

Considering they despise Trump and are mad Hillary lost, and, and, they have essentially run witch hunts against people like Jordan Peterson, I am inclined to think part of this at minimum is a witch hunt.

I didn't even vote for Trump and what I see is vicious partisanship by the media and others.

It does look like a palace coup. Matt Taibbi ain't no conservative, and that's what he sees.

I am also gravely concerned about such things as this:

“There have so far been two hearings in the House Democrats' effort to impeach President Trump over the Ukraine matter. Both have been held in secret. One was Thursday, the other Friday, and the public does not know what was said in either. Two more are scheduled for this week and will be held behind closed doors, too.

The hearings are part of an effort to remove the president from office. There could not be a matter of more pressing public concern. There could not be a matter in which the American people have a greater stake. And yet the public has no idea what is being discovered.

Last week's sessions weren't just secret. They were super-secret. The first hearing, in which the witness was former Ukraine special envoy Kurt Volker, was held in what is known as a SCIF, which stands for sensitive compartmented information facility. It is a room in the Capitol built to be impervious to electronic surveillance so that lawmakers can discuss the nation's most important secrets without fear of discovery.

The second hearing, in which Intelligence Community Inspector General Michael Atkinson testified, was also held in the SCIF.”

Scott Adam's has spoken on the matter of Trump and persuasion, as well as Trump and the Ukraine. This is no simple matter of 'Trump is a buffoon'.

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Karen S says:

October 10, 2019 at 12:28 PM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1889952>).

PR – not only were they secret, they were partisan. Republicans were not allowed to call witnesses. It is my understanding that by not having a vote, Pelosi has more control of the process.

My Dad used to work at times with classified information in a SCIF. There was a red sign over the door that read, “Feeling lonely tonight? Want to talk to someone? Then forget to lock your safe.” They were dead serious about security, and put the fear of God into anyone who touched classified information. That is why it was shocking to see Hillary lie about her secret server in her bathroom, where she uploaded

classified information to the Cloud, and people with no clearance had access and...it was all fine. She should have been in some oubliette that required a series of FOIAs just to discover her whereabouts.

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V Whitaker says:

October 10, 2019 at 6:39 AM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1889869>).

I do agree with you on the “...Warren being his dream opponent”. He should be careful though, she could also be his nightmare. Possibly, a nightmare for all of us.

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Prairie Rose says:

October 10, 2019 at 9:12 AM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1889893>).

V Whitaker,

“Possibly, a nightmare for all of us.”

I agree.

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Karen S says:

October 10, 2019 at 12:29 PM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1889953>).

Her rhetoric that punishes employers and the rich, promising to give goodies to voters, is very popular. That’s how Stalin rose. It was all going to be for the good of the people.

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Mr Kurtz says:

October 10, 2019 at 8:38 PM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1890133>).

Oh, she's no Stalin. Hillary had the makings of a tryant but Liz is a cut below.

The Dem party likes WEAK candidates. They are too "diverse" to unite strongly behind any one leader. There are too many factions. Look at that field right now. Their best candidate just got tossed under the bus in favor of a pantsuit.

Among the two parties, the one with a more coherent base, can bring forth a stronger candidate than a big tent operation. FDR was such a candidate. The strongest president in American history. Right now Republicans are a far more focused party than they were before. Donald's populism has proven its worth and he's brought them along by the nose.

This will be the permanent disadvantage of the Democrat party moving forwards.

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lin says:

October 10, 2019 at 8:23 PM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1890131>).

So do I.

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David B. Benson says:

October 10, 2019 at 1:30 AM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1889853>).

Do Looney Tunes come from the Looney Bin?

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Anonymous says:

October 10, 2019 at 3:24 AM (<https://jonathanturley.org/2019/10/09/white-house-issues-defiant-letter-refusing-to-cooperate-in-impeachment-proceedings/comment-page-4/#comment-1889859>).

Yep, Bugs Bunny, my favorite tranny.

Or many a bunny-eared Playboy

::throws up a baphmet sign::

Jokes. Ppl. Jokes.

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