

RPTR FORADORI

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ORGANIZATIONAL MEETING

Thursday, January 24, 2019

House of Representatives,  
Committee on the Judiciary,  
Washington, D.C.

The committee met, pursuant to call, at 10:04 a.m., in Room 2141, Rayburn House Office Building, Hon. Jerrold Nadler [chairman of the committee] presiding.

Present: Representatives Nadler, Jackson Lee, Cohen, Johnson of Georgia, Deutch, Bass, Jeffries, Cicilline, Swalwell, Lieu, Raskin, Jayapal, Demings, Correa, Scanlon, Garcia, Neguse, McBath, Dean, Mucarsel-Powell, Escobar, Collins, Chabot, Gohmert, Jordan, Buck, Ratcliffe, Roby, Gaetz, Johnson of Louisiana, Biggs, McClintock, Lesko, Reschenthaler, Cline, Armstrong, and Steube.

Staff Present: Rachel Calanni, Professional Staff Member (Clerk); Susan Jensen, Parliamentarian and Senior Counsel; Perry Apelbaum, Staff Director; David Greengrass, Senior Counsel; Matthew

Morgan, Counsel; Lisette Morton, Director of Member Services; Brendan Belair, Minority Staff Director; Jon Ferro, Minority Parliamentarian and General Counsel; and Robert Parmiter, Minority Deputy Staff Director.

Chairman Nadler. Good morning. The Judiciary Committee will please come to order. Without objection, the chair is authorized to declare a recess at any time. Pursuant to notice of January 22, 2019, I am pleased to call to order the organizational meeting of the members of the Committee on the Judiciary for the 116th Congress.

Before we proceed, again, I will simply inform everybody of what you probably know already. There will be votes on the floor soon. We will recess for the votes and will reconvene as soon as the votes are over. So, as soon as the votes are over, please return to the committee room.

To ascertain the presence of a quorum, I ask the clerk to please call the roll of members.

Ms. Calanni. Mr. Nadler?

Chairman Nadler. Here.

Ms. Calanni. Ms. Lofgren?

[No response.]

Ms. Calanni. Ms. Jackson Lee?

[No response.]

Ms. Calanni. Mr. Cohen?

Mr. Cohen. Here.

Ms. Calanni. Mr. Johnson?

[No response.]

Ms. Calanni. Mr. Deutch?

Mr. Deutch. Here.

Ms. Calanni. Ms. Bass?

[No response.]

Ms. Calanni. Mr. Richmond?

[No response.]

Ms. Calanni. Mr. Jeffries?

[No response.]

Ms. Calanni. Mr. Cicilline?

[No response.]

Ms. Calanni. Mr. Swalwell?

Mr. Swalwell. Here.

Ms. Calanni. Mr. Lieu?

[No response.]

Ms. Calanni. Mr. Raskin?

Mr. Raskin. Here.

Ms. Calanni. Ms. Jayapal?

Ms. Jayapal. Here.

Ms. Calanni. Mrs. Demings?

[No response.]

Ms. Calanni. Mr. Correa?

Mr. Correa. Here.

Ms. Calanni. Ms. Scanlon?

Ms. Scanlon. Here.

Ms. Calanni. Ms. Garcia?

Ms. Garcia. Here.

Ms. Calanni. Mr. Neguse?

Mr. Neguse. Here.

Ms. Calanni. Ms. McBath?

[No response.]

Ms. Calanni. Mr. Stanton?

[No response.]

Ms. Calanni. Ms. Dean?

Ms. Dean. Here.

Ms. Calanni. Ms. Mucarsel-Powell?

[No response.]

Ms. Calanni. Ms. Escobar?

Ms. Escobar. Here.

Ms. Calanni. Mr. Collins?

Mr. Collins. Here.

Ms. Calanni. Mr. Sensenbrenner?

[No response.]

Ms. Calanni. Mr. Chabot?

[No response.]

Ms. Calanni. Mr. Gohmert?

Mr. Gohmert. Here.

Ms. Calanni. Mr. Jordan?

[No response.]

Ms. Calanni. Mr. Buck?

[No response.]

Ms. Calanni. Mr. Ratcliffe?

[No response.]

Ms. Calanni. Mrs. Roby?

[No response.]

Ms. Calanni. Mr. Gaetz?

Mr. Gaetz. Here.

Ms. Calanni. Mr. Johnson?

Mr. Johnson of Louisiana. Here.

Ms. Calanni. Mr. Biggs?

Mr. Biggs. Present.

Ms. Calanni. Mr. McClintock?

Mr. McClintock. Here.

Ms. Calanni. Mrs. Lesko?

Mrs. Lesko. Here.

Ms. Calanni. Mr. Reschenthaler?

Mr. Reschenthaler. Here.

Ms. Calanni. Mr. Cline?

Mr. Cline. Here.

Ms. Calanni. Mr. Armstrong?

Mr. Armstrong. Here.

Ms. Calanni. Mr. Steube?

Mr. Steube. Here.

Chairman Nadler. The clerk will --

Ms. Calanni. Twenty-three members reported present.

Chairman Nadler. Thank you. A quorum is present. I want to begin by welcoming all the returning and new members of the committee to our full committee organizational meeting for the 116th Congress. I also want to congratulate the distinguished gentleman from Georgia,

Mr. Collins, for becoming the new ranking member of the committee.

In just three terms, he has already authored significant legislation, served as vice chair of the Republican caucus and now becomes the ranking member of the Judiciary Committee. I look forward to working with him in the coming years.

We meet today first to introduce new members of the committee on both sides of the aisle, to adopt our committee rules of procedure for the 116th Congress, and to ratify committee chairs and ranking members, the assignment of members to subcommittees, and the vice chair of the committee.

This subcommittee historically has been one of the busiest and most productive committees in the House, and I expect that to remain true during this Congress.

We also have a low-end reputation for having some contentious debates, and I expect that to remain true as well. I know, however, that all of our members will treat each other with respect and with civility no matter how passionate we may be about the issues at hand.

I also hope that we will find many issues in which we can work together on a bipartisan basis. The ranking member and I have worked closely on a number of important bills over the years, including the Music Modernization Act and the Defend Trade Secrets Act, and we have already begun discussions in other areas in which we may find common ground this Congress.

I look forward to working with him and with all the members of our committee. At this time, I would like to welcome and introduce

the new members of the committee. We are fortunate on our side of the aisle to have nine new Democratic members joining the committee this year. They come from diverse backgrounds and bring a broad range of experiences that will inform our work on this committee.

Lou Correa is in his second term representing California's 46th District. After graduating from California State University-Fullerton with a degree in economics, he earned his law degree and MBA from UCLA. He worked in the private sector as a banker, attorney, and licensed real estate broker before turning to public service as a member of the Orange County Board of Supervisors and the California State Senate.

Mary Gay Scanlon is serving her first full time representing Pennsylvania's Fifth District. She graduated from Colgate University and the University of Pennsylvania Law School. She served as national pro bono counsel at Ballard Spahr LLP for 15 years, and she also served as a member of the Wallingford-Swarthmore School Board for 8 years. I am pleased to report that yesterday Ms. Scanlon was elected vice chair of the Judiciary Committee.

Sylvia Garcia, also new to the House, represents the 29th District of Texas. She joins us after serving three terms in the Texas State Senate. Ms. Garcia also served as director and presiding judge of the Houston Municipal System. She graduated from Texas Woman's University with a degree in social work and political science, and earned her law degree from Thurgood Marshall School of Law at Texas Southern University.



Joe Neguse was also elected to his first term in November, representing Colorado's Second District. Prior to his election, he was executive director of Colorado's Consumer Protection Agency and served on the University of Colorado Board of Regents. He graduated from the University of Colorado at Boulder and received his law degree from the University of Colorado School of Law.

Lucy McBath, another new member, represents Georgia's Sixth District. She graduated from Virginia State University with a degree in political science and went on to have a 30-year career with Delta Airlines. After the tragic murder of her son in 2012, she became a national spokesperson for both Everytown For Gun Safety and Moms Demand Action for Gun Sense in America.

Greg Stanton is in his first term representing the Ninth District of Arizona. Prior to his election to Congress, he had served as mayor of Phoenix since 2012. Before that, he served 9 years on the Phoenix City Council and was Arizona's deputy attorney general. Mr. Stanton attended Marquette University and earned a law degree from the University of Michigan.

Madeleine Dean represents Pennsylvania's Fourth District. Ms. Dean graduated from La Salle University, where she later taught writing and earned her law degree from Delaware Law School of Widener University. She served in the Pennsylvania statehouse and won her first term to Congress this November.

Debbie Mucarsel-Powell, representing Florida's 26th District, went to Pitzer College where she studied political science and later

earned a master's degree in international political economy from Claremont University. She worked for a variety of nonprofit organizations before winning her first term in Congress in November.

Finally, Veronica Escobar is also beginning her first term representing the 16th District of Texas. She graduated from the University of Texas at El Paso and received a master's degree from New York University, in my district. Prior to her election, she served two terms as El Paso County judge and one term as county commissioner.

I now yield to the distinguished ranking member, Mr. Collins, for an opening statement and to introduce the new members on his side of the aisle.

Mr. Collins. Thank you, Mr. Chairman. I am looking forward, and the rest of the members of the committee, I think as we get started this morning, there will be some other issues that we will deal with, but I am pleased to welcome the new Democrats to the committee and see some old friends on the other side as well, and see the folks that we have coming back on our side.

As we get forward, I am looking forward, Mr. Chairman, as we move forward, as your kind words and as we have worked together, there will be places I believe we will be able to work together, and then there, of course, will be places we won't, and those will be, I think, as respectful and as civil as we can because that is what this committee is about. And we will continue to do so.

But it is also my pleasure -- I want to start before, however, as a moment of privilege as well, before we introduce our new members,

is to recognize that our dean, frankly, on the Judiciary Committee, Mr. Sensenbrenner is not here. He is recovering from hip surgery. He is doing well. He is recovering. He is doing his therapy, is my understanding. I am sure his physical therapist and him are having a ball doing that. For Mr. Sensenbrenner -- for those who know Mr. Sensenbrenner, that is a good thing. But we look forward to having him back very soon.

Our new members, Tom McClintock, joins us from California's Fourth Congressional District, which he has proudly served for 10 years. He has been an active member of House Budget Committee and the Committee on Natural Resources, and we look forward to his presence on Judiciary. Prior to his election to Congress, he was a member from the California State Assembly and the California State Senate. He graduated from UCLA.

Debbie Lesko joins us from Arizona's Eighth Congressional District. Before being elected to Congress, she served in the Arizona Senate. In 2017, she was named the Arizona State Senate appropriations chairman and served a year as president pro tem. Congresswoman Lesko graduated from the University of Wisconsin.

Guy Reschenthaler joins us from Pennsylvania's 14th Congressional District. Congressman Reschenthaler graduated from -- an undergrad from Penn State University-Behrend -- did I get close? There we go -- and received his MBA from Duquesne University. After law school, he served in Iraq as a Navy JAG, as a magisterial judge in Pittsburgh, and as a member of the Pennsylvania State Senate.

Ben Cline joins us from the Sixth Congressional District of Virginia, and he started his political career as chief of staff to the former chairman of this committee, Bob Goodlatte, moving next to the Virginia House of Delegates, where he served for 8 terms while also attorney in private practice. Additionally, he prosecuted as an assistant Commonwealth attorney. Congressman Cline graduated from Bates College in Maine and received his J.D. from the University of Richmond.

Kelly Armstrong joins us from the great State of North Dakota, as he likes to say, all of it. Prior to his election to Congress, Congressman Armstrong served as a member of the North Dakota Senate for 6 years and was chair of the North Dakota Republican Party for 3. Congressman Armstrong received both his undergraduate and his J.D. from the University of North Dakota.

And then Greg Steube. Greg joins us from the 17th District of Florida. Congressman Steube received his undergraduate and J.D. from the University of Florida. After law school, Congressman Steube joined the Army, serving a tour in Iraq as JAG. He was elected to the Florida House of Representatives and then the Florida Senate, where he was chairman of the Florida Senate Judiciary Committee.

And with that, Mr. Chairman, that is our new members, and welcoming back our old as well.

Chairman Nadler. I thank the gentleman.

I thank the ranking member for his comments, and I ask everyone to join me in welcoming all of the new members of the committee on both

sides of the aisle.

The next order of business is adoption of the committee rules for the 116th Congress as required by clause 2(a) of House rule XI. A copy of the rules -- of the proposed rules is before each member. Let me briefly summarize how these proposed rules differ from those of the committee in the last Congress.

With regard to a hearing conducted jointly with another committee, rule 3(c) -- 3(f), rather, has been revised to require any deviation from our ordinary hearing rules to be specified. In addition, various technical revisions were made to better conform with House rules.

Finally, Rule 6 sets forth the name and jurisdiction of each subcommittee. Overall, these committee rule changes are relatively modest in scope, and I urge their adoption.

Essentially, these are the rules from the last Congress with the two modest changes that I mentioned.

I now yield to the gentleman from Georgia for any remarks that he may have about the rules.

Mr. Collins. Mr. Chairman, thank you. I look forward to working with you and the rest of the members of the committee. We have been able to achieve a great deal in this committee in the past, and I hope to continue to do so in the future. But I would be remiss if I did not express my deep concern over the apparent lack of regard for the rules of the House that I have witnessed from the majority of this committee so far.

In calling this meeting, the meeting to adopt the committee rules, the chair has failed to provide notice, sufficient notice, to the minority members, has failed to provide transparency to the public by posting the proposed measure before its consideration and is required by the rules of the House. Instead of correcting the error and providing both the minority and the public with notice that the rules properly demand, the majority has chosen to rush this meeting, and this is unnecessary.

At least two other House committees are planning to do what we have suggested and hold organizational meetings and the majority's first hearing on Tuesday. And this is not only an instance in which the majority appears to believe that the ends justify skirting the rules that are essential to the functioning of the Chamber.

Just over two weeks ago, when it was discussing attempts to secure the Acting Attorney General's appearance before the committee, the chairman was recorded as saying, quote: If we don't reach an agreement in the next day or two, we will subpoena him.

That statement alluded to the immediate use of subpoena power that has not been delegated to the chairman by this committee. I assume that the committee -- it was simply a misspoke, but I am concerned nonetheless. And I certainly hope that we will exercise great power and care as we move forward.

I am confident we will disagree on a number of topics within this committee's jurisdiction. I am also hopeful that we will find ways to work together as we have in the past to serve the American people.

But, Mr. Chairman, I cannot stand idly by while the majority ignores the rules and traditions governing this Chamber.

And, with that, I yield back.

Chairman Nadler. I thank the gentleman.

Let me simply reply by saying that we laid out our proposed timeline to the minority last week when we both became aware of the identities of our new members. I had planned to organize tomorrow -- to hold this meeting tomorrow so as to provide the maximum possible notice before our hearing next Tuesday. Unfortunately -- or fortunately, depending on your view -- the leadership gave away tomorrow. We are not going to be here, unless things change. So, as an accommodation to members, I felt it best to proceed today so as not to force members to stay in Washington on a day where there are notes votes on the floor.

If we were forced to wait until next Tuesday to organize, not only would the organization conflict with many other committees, but it would severely limit our ability to conduct hearings and markups prior to several important bills going to the floor in February. In other words, I want to protect the committee's jurisdiction to the greatest extent possible to the benefit of all of our members.

And I would simply say that the minority has had copies of our proposed rules since -- for more than sufficient time, not yesterday or the day before, and that is my reply to this.

Do you have a point of order on this?

Mr. Collins. Yes, Mr. Chairman, I want to make a point of order.

Chairman Nadler. All right. The gentleman is going to make a point of order.

I will rule on the point of order. We may vote on that, and then we will recess to go to the floor for votes.

Mr. Collins. Okay. Mr. Chairman, I will make a point of order that consideration of this measure is in violation of clause 2(g) of rule XI.

Chairman Nadler. The chair is prepared to vote on the point of order, House rule XI, clause --

Mr. Collins. Mr. Chairman, as clarification, is the chair willing to enter into debate, or are you going to rule?

Chairman Nadler. I am going to rule, and if you want to appeal -- the gentleman is recognized on his point of order.

Mr. Collins. Thank you, Mr. Chairman.

Let's go by -- this is a committee that actually oversees the Rules of Federal Procedure in the court system. This is a committee that is not one to simply look at rules and say just for the convenience of others or the convenience of making it, that we can just simply ignore public notice, that we can simply ignore transparency. In fact, many of your new members actually ran on that as one of the issues that they wanted to do, was transparency.

I get the understanding and I get from the perspective that the chairman can, frankly, at a certain point in time and with his membership do whatever he wants to do today. But the rule -- the clause 2(g) of rule XI places some minimum requirements -- and I want the other



members to think about this -- on how we notice must be made for impending committee meetings. Clause 2 requires public notice 24 hours beforehand.

There is literally no -- still no public post to the rules on the committee website or anywhere else for that matter. We currently only have a document that still says "confidential" across the top.

Clause 2 also prohibits consideration sooner than the third day on which members have notice, and notice must specify what will be occurring. The first email attempt at notice only stated vaguely that the committee would be meeting. It made no reference to exactly what would be considered.

This is happening right now in many other committees. We had, I think -- some of my members actually had organizational meetings this morning that were properly noticed. There are committees that are going to be meeting on Tuesday that were properly noticed and have a hearing attached to them on Tuesday. This is just part of what we do in -- coming into an era of transparency and again starting off, this is basically a violation of clause 2(g).

The chairman can understand that in any way he wants to, but these are things that are still pending that are not being addressed. And when other committees can do it properly, why can't the Judiciary Committee, which is the holder and keeper of procedure, not follow suit?

I yield back.

Chairman Nadler. Thank you.

The chair is prepared to rule on the point of order. House rule

XI, clause 2(g), sub (3), provides that a committee meeting, quote, may not commence earlier than the third day on which members have notice thereof, close quote. As you note, notice of today's meeting was issued to members on Tuesday of this week. We have been advised by the Parliamentarians that notice is proper, even if issued before the committee was fully populated.

My staff has also been in regular communication with the ranking member's staff since early last week and repeatedly made clear the intention to organize today. As we have complied both with the spirit and the letter of the rules, the point of order is overruled.

Mr. Collins. Mr. Chairman?

Chairman Nadler. Yes.

Mr. Collins. I appeal the ruling of the chair.

Chairman Nadler. The question is on the motion to take -- the motion to appeal --

Mr. Collins. Will there be any debate offered on this appeal?

Chairman Nadler. Wait, wait, wait. Let me just say this.

Mr. Collins. Okay.

Chairman Nadler. The motion -- the ruling of the chair was appealed. There is a motion pending to table the appeal of the ruling of the chair. A motion to table, I believe, is undebatable.

All those in favor shall signify by saying aye.

Opposed, no.

In the opinion of the chair, the ayes have it, the ayes have it, and the motion is tabled.

Mr. Collins. I ask for a roll call.

Chairman Nadler. The gentleman has asked for a roll call.

The committee will recess for the votes on the floor, and we will take the roll call -- do we have time?

The committee will recess so as to give members time to go to the floor and vote. We will reconvene and take up the gentleman's -- all right. We will vote now, I am told. We should vote now. The clerk will call the roll quickly.

Ms. Calanni. Mr. Nadler?

Chairman Nadler. Aye.

Ms. Calanni. Ms. Lofgren?

[No response.]

Ms. Calanni. Ms. Jackson Lee?

[No response.]

Ms. Calanni. Mr. Cohen?

Mr. Cohen. Aye.

Ms. Calanni. Mr. Johnson?

Mr. Johnson of Georgia. Aye.

Ms. Calanni. Mr. Deutch?

Mr. Deutch. Aye.

Ms. Calanni. Ms. Bass?

[No response.]

Ms. Calanni. Mr. Richmond?

[No response.]

Ms. Calanni. Mr. Jeffries?

Mr. Jeffries. Aye.

Ms. Calanni. Mr. Cicilline?

[No response.]

Ms. Calanni. Mr. Swalwell?

Mr. Swalwell. Aye.

Ms. Calanni. Mr. Lieu?

[No response.]

Ms. Calanni. Mr. Raskin?

Mr. Raskin. Aye.

Ms. Calanni. Ms. Jayapal?

Ms. Jayapal. Aye.

Ms. Calanni. Ms. Demings?

[No response.]

Ms. Calanni. Mr. Correa?

Mr. Correa. Aye.

Ms. Calanni. Ms. Scanlon?

Ms. Scanlon. Aye.

Ms. Calanni. Ms. Garcia?

Ms. Garcia. Aye.

Ms. Calanni. Mr. Neguse?

Mr. Neguse. Aye.

Ms. Calanni. Mrs. McBath?

Mrs. McBath. Aye.

Ms. Calanni. Mr. Stanton?

[No response.]

Ms. Calanni. Ms. Dean?

Ms. Dean. Aye.

Ms. Calanni. Ms. Mucarsel-Powell?

Ms. Mucarsel-Powell. Aye.

Ms. Calanni. Ms. Escobar?

Ms. Escobar. Aye.

Ms. Calanni. Mr. Collins?

Mr. Collins. No.

Ms. Calanni. Mr. Sensenbrenner?

[No response.]

Ms. Calanni. Mr. Chabot?

Mr. Chabot. No.

Ms. Calanni. Mr. Gohmert?

Mr. Gohmert. No.

Ms. Calanni. Mr. Jordan?

Mr. Jordan. No.

Ms. Calanni. Mr. Buck?

Mr. Buck. No.

Ms. Calanni. Mr. Ratcliffe?

Mr. Ratcliffe. No.

Ms. Calanni. Mrs. Roby?

Mrs. Roby. No.

Chairman Nadler. Let me remind everybody: Return as soon as the votes are over on the floor.

Ms. Calanni. Mr. Gaetz?

Mr. Gaetz. No.

Ms. Calanni. Mr. Johnson?

Mr. Johnson of Louisiana. No.

Ms. Calanni. Mr. Biggs?

Mr. Biggs. No.

Ms. Calanni. Mr. McClintock?

Mr. McClintock. No.

Ms. Calanni. Mrs. Lesko?

Mrs. Lesko. No.

Ms. Calanni. Mr. Reschenthaler?

Mr. Reschenthaler. No.

Ms. Calanni. Mr. Cline?

Mr. Cline. No.

Ms. Calanni. Mr. Armstrong?

Mr. Armstrong. No.

Ms. Calanni. Mr. Steube?

Mr. Steube. No.

Chairman Nadler. Mr. Lieu, the gentleman from California. Did he vote?

Ms. Calanni. Mr. Lieu votes aye.

Chairman Nadler. Any members who haven't voted who wish to vote?

The clerk will finish counting and will report. The clerk will report.

Ms. Calanni. Mr. Chairman, 18 members voted aye; 16 members voted no.

Chairman Nadler. Then the motion to table is adopted. The committee will stand in immediate recess until the votes on the floor are completed.

[Recess.]

RPTR MOLNAR

EDTR HOFSTAD

[11:07 a.m.]

Chairman Nadler. The committee will come to order.

I now yield to the ranking member.

Mr. Collins. Thank you, Mr. Chairman. And I thank you for the understanding. I think we have had our -- moving forward, I would like to enter into a discussion here with you, and I think this will be a great way we can continue to look forward.

So, Mr. Chairman, congressional subpoena is one of the most powerful tools available to committees of this Chamber. And I agree with the sentiments expressed by then-Ranking Member Conyers early last Congress when he stated the tool should be used as a method of last resort.

I believe the exercise of such authority, however, should require public debate in an open committee hearing. In rare instances in situations when it does not provide such opportunity, I believe there is no reason we cannot agree on the proper course of action.

It is my understanding the chairman has agreed to use this authority judiciously. Specifically, Mr. Chairman, it is my understanding that whenever the chairman plans to issue a subpoena he will meet with me in person 2 days in advance and will provide a physical copy of the subpoena. In the event that I object, we will schedule a committee vote as soon as reasonably practical.



I think this is something where we can come together on. I think it shows that we can work, and we have found that agreement in the past, where you and I can work together. I appreciate this accommodation and look forward to working with you on this, Mr. Chairman.

And, with that, I will yield back for the continuation.

Chairman Nadler. I thank the gentleman.

I appreciate the concerns raised by the ranking member about the subpoena authority. Indeed, we had many of the same concerns this time last Congress. I want to take just a moment to address those concerns on the record.

First, other than to clarify the meaning of the term "business day," we are making no changes to the subpoena rules as they were adopted by the Republican majority 4 years ago and again 2 years ago. I make no apologies for having different priorities than past chairmen when it comes to setting our oversight agenda this Congress, but I pledge to be a careful steward of this authority.

A congressional subpoena is a powerful and coercive tool. It should be used only when our attempts to reach an accommodation with the witness have reached an impasse. This committee is not going to issue a subpoena every time we have a disagreement with the administration, no matter how many times, I suspect, we will disagree with them.

Second, I intend to avoid the use of unilateral subpoenas wherever possible. In the normal course, I hope to work with the ranking member on proposed subpoenas well in advance. I understand the consultation

requirement to mean that he is entitled to an in-person meeting where feasible.

I will provide him with a copy of the proposed subpoena at that time. If he expresses an objection to the proposal, my preference will be to bring the subpoena before the committee for a vote. Our members deserve the opportunity to go on the record for some of the most important work we will do this Congress, and the public deserves the opportunity to see us do that work out in the open.

I would point out that, in the last Congress, there were no votes on subpoenas and every subpoena was issued under the exception by consultation with the ranking member. We are pledging that, where the ranking member objects, we will have an open proceeding and a vote where feasible.

There will be exceptions to this rule, when, for example, the calendar does not permit us to schedule a markup between my initial consultation with the ranking member and the date on which a witness is scheduled to appear and we can't schedule a markup for a vote on the subpoena.

That may be the case with respect to Acting Attorney General Whitaker given the uncertainties in the legislative calendar over the next few weeks. He is, as I assume people know, scheduled to be here on February 8.

But even in this case, I intend to be open with Ranking Member Collins and give him every opportunity to voice his opinion on the matter. We should take our oversight responsibility seriously, and

there need not be surprises here.

Finally, it is my intention to avoid the emergency subpoena authority contemplated by these rules unless we face a true emergency. This authority has never been used by this committee, to my knowledge. My understanding is that no committee with a similar authority has issued an emergency subpoena in recent history, if ever. My strong preference is to keep it that way.

The ranking member and I may not always agree on every issue, but I agree with him here that a fair and open process that respects the rights of the minority is good governance and lends credibility to the committee as a whole. There is no concern with these rules that we cannot work out by working together.

Mr. Collins. Mr. Chairman?

Chairman Nadler. Yes, sir.

Mr. Collins. I want to thank the chairman for being on record and publicly stating your ability to work with us on this. I think this will give us an open and fair process.

It still does not, you know -- I think, as you said, there are going to be many times that we are going to disagree. Those are the times -- but on this issue, with the power of a subpoena, the consultation with us, and the ability to do that.

I will also make it very clear that I will make myself available at any point in time for the chairman, will go anywhere need be, because I want to see this actually fulfilled. And as we do that, that will give us a good working relationship as we move forward. Hopefully,

as we move forward, that will not be needed. But if needed, we have now a groundwork and a good rules following to appreciate it.

I also appreciate the fact that you reiterated your concern not to use the emergency issue. I do not forever see a possibility -- and I don't think you do as well -- where that would actually be needed. So I appreciate your concern there, and I think, with this point, we will be looking forward to working together and moving forward with this day.

Chairman Nadler. I thank the gentleman for his comments.

Are there any amendments to the committee rules?

If there are no amendments, I move that the proposed rules be adopted as the rules of the Committee on the Judiciary for the 116th Congress.

A reporting quorum being here, the question is on the motion.

All in favor, say aye.

Opposed, no.

The ayes have it, and the rules are adopted.

Without objection, the motion to reconsider is laid on the table.

Pursuant to the House rules, the rules adopted by the Committee on the Judiciary for the 116th Congress will be published in the Congressional Record and made available to Members and the public on the committee's website.

The next order of business is the ratification of subcommittee assignments. Before you are rosters of full committee members, including the chairman and ranking member, the vice chair, as well as

the members of each subcommittee, including chairs and ranking members, as approved separately by the committee's Democratic Caucus and the committee's Republican Conference.

Is there any discussion before we vote on approving the roster?

The question is on approving the appointments and assignments for the list of subcommittee chairs and ranking members and the committee vice chair as set forth in the rosters be approved.

All those in favor, say aye.

Those opposed.

The ayes have it, and the chairs and ranking members are appointed.

Without objection, the motion to reconsider is laid on the table.

We will now consider subcommittee assignments. A copy of the subcommittee rosters has been provided to you.

Unless there is further discussion on these rosters, I move that the subcommittee assignments as set forth in the rosters be approved. Is there any discussion of the motion?

If not, all those in favor, say aye.

Opposed, no.

The ayes have it, and the subcommittee rosters are approved.

Without objection, the motion to reconsider is laid on the table.

This concludes the order of business for today's meeting. I thank all the members for being here today and for their participation. I look forward to working together with all of you.

And, with that, the meeting is adjourned.

[Whereupon, at 11:15 a.m., the committee was adjourned.]