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Memo to the Missouri House Special Investigative Committee on Oversight

June 26, 2018

Dear Colleagues:

Thank you for your service on the House Special Investigative Committee on Oversight. It was an honor to serve with you. I write regarding the future of our Committee.

This committee was formed for the express purpose of investigating allegations against Governor Eric R. Greitens. At the time of his resignation, the Committee was very close to finishing its investigation of credible allegations of sexual assault and domestic violence. Although we never voted on it, I believe the evidence was such that a super-majority of our Committee was prepared to vote that there was good cause to believe Greitens engaged in multiple acts constituting crimes, misconduct, and acts of moral turpitude warranting the filing of articles of impeachment.

As chairman, I believe the acts of misconduct and moral turpitude against Witness 1 extended into Greitens' time in office. It was misconduct and an act of moral turpitude for Greitens to publicly claim that Witness 1 testified that she might have remembered the encounter in a dream and that a video of a conversation she had with the St. Louis Circuit Attorney and an investigator was "exonerating." Both statements by Greitens were slanderous and, as the Committee unanimously found in an addendum to Report 1, wholly untrue.

In addition to evidence of sexual assault and domestic violence, the Committee also possessed sufficient documentary evidence to establish good cause to believe Greitens and his campaign had misappropriated property of The Mission Continues, and then lied about it on a report submitted to the Missouri Ethics Commission.

Based on the documents in our possession, I believe Eric Greitens faced a near certain criminal conviction in the now dismissed case on tampering with computer evidence. In addition to what was already publicly known, the Committee possesses a document showing that Greitens originally obtained the donor list from The Mission Continues under false pretenses. That document presented the possibility that additional charges for fraud may have been available to state or federal prosecutors.

But our investigation was not complete.

The Committee also obtained documentary evidence that suggests Greitens' may have engaged in criminal fraud in a grant application and its award from the John Templeton Foundation and Washington University. The documents also show Greitens spent up to \$66,600 of grant funds for political purposes not authorized by the grant.

I had prepared a memo for the Committee summarizing the documents in our possession that may have (and still could potentially be) the basis for federal or state fraud charges and was set to present it to the Committee on Wednesday of the week that Greitens resigned. At the same time, counsel for our committee was engaged in discussions with Washington University to secure testimony relating to the grant. This was cut short due to Greitens' unexpected resignation.

Though not criminal, other documents in the Committee's possession raise suspicions of literary fraud regarding *Resilience*, Greitens' best-selling book. Greitens repeatedly asserted to national media outlets that the book was the outgrowth of a series of letters between himself and a fellow Navy SEAL suffering from PTSD who called him after having been arrested and charged with a crime. This appears to be false. The original manuscript for the book was likely written by one of Greitens' assistants, and it was only after that manuscript was complete that Greitens began editing the book into a series of "letters." There is also no public record of Greitens' friend being arrested or charged with a crime in the time period in which Greitens' claimed.

The Committee's investigation into campaign finance improprieties was also curtailed by Greitens' resignation. We had recently received more than 30,000 pages from the Greitens for Missouri campaign and were soon expecting documents from A New Missouri, Inc.. The campaign documents we possess contain significant circumstantial and direct evidence of illegal activity. The documents also tend to show that those in charge of the Greitens' campaign had a scheme to hide donor identities and attempt to funnel donors to a (c)(4) if a potential donor's identity would either be politically troublesome or they were otherwise prohibited by federal or state law from contributing to the campaign.

Finally, this list of criminal activity by Eric Greitens and those around him does not include several other areas of inquiry that, as chairman or as a Committee, determined that we did not have the

time or resources to fully investigate or, despite having spoken to witnesses off-the-record, did not have anyone willing to testify publicly. These included:

1. Use of the Confide and other secret messaging applications for official business;
2. Public corruption in which a senior member of the transition team attempted to (and may have) profited from her role on the transition. Greitens' was very likely informed of the profiteering, but she was not removed from any official responsibilities and remained a key player during the Greitens' administration until the very end; and
3. Other potential acts sexual misconduct and crimes by Eric Greitens; and
4. Misuse of official resources for campaign related purposes, including communications and social media content.

Now, the question is, what next? Should the Committee continue its work after its initial stated purpose – investigating allegations against “Governor” Eric Greitens – is moot?

Like many of you, I have spent a considerable amount of time thinking about this question. The question is not whether further investigation is warranted. Instead, it is whether this Committee is the appropriate governmental entity for such an investigation. And the answer has ramifications beyond this particular Committee.

Contrary to what some potential critics have said, the House does not have “inherent authority” to investigate “anything” it wants. In a government with limited and separate powers, the legislature cannot transform itself into a law enforcement agency. Instead, Article III, section 1 of the Missouri Constitution vests “[t]he legislative power” in the Senate and House of Representatives – and only “the legislative power.” Hence, in my view, any activity of a legislative committee must be tied to a “legislative power,” i.e. it must have a legislative purpose. The House has four primary legislative purposes: legislation, budgeting, oversight of state governmental entities, and impeachment.

To what category could we assign further investigation by this Committee? Legislation does not fit because I believe A New Missouri's activities are already illegal under Missouri law. Budgeting does not fit this Committee because we have another Committee dedicated to that purpose. Oversight of state governmental entities does not fit because A New Missouri, Inc. was not a governmental entity. And impeachment no longer fits because Greitens resigned. Accordingly, this Committee is not the appropriate entity for further investigation.

I understand this may disappoint some of you – and some in the public – who demand further accountability for Eric Greitens. But we cannot investigate alleged illegal activity by someone else with actions of our own that are either illegal or create problematic precedent for future legislators.

Make no mistake. Missourians deserve a full accounting of A New Missouri, Inc., which I have come to believe was a criminal enterprise from its inception – designed to illegally skirt donation limits and conceal the identities of major donors to Eric Greitens and ballot initiatives relating to right-to-work that were supported by the former governor.

There are at least three state governmental entities with potential jurisdiction to investigate A New Missouri: the Attorney General, the Cole County Prosecuting Attorney, and the Missouri Ethics Commission. As chairman of this Committee, I am preparing a complaint to be filed with the Missouri Ethics Commission against Greitens for Missouri and A New Missouri. It should be ready for filing next week. Please let me know if you would like to add your name as a complainant.

Respectfully yours,



Rep. Jay Barnes