

ANDREW MCCABE DELAYS TESTIMONY TO SJC, CALLING IN-PERSON TESTIMONY A “GRAVE SAFETY RISK”

Virtually every book about the FBI or the Mueller investigation that has come out in recent years has described that Andrew McCabe is a superb briefer – meaning, in part, he can present complex issues to a hostile audience clearly. That’s why the reason his attorney, Michael Bromwich, gave for delaying testimony that was scheduled makes a lot of sense.

As a letter Bromwich sent to Lindsey Graham laid out, McCabe agreed to a voluntary interview in September, provided a series of conditions were met. One – that McCabe have access to his unclassified calendars and notes – has already been thwarted by DOJ, which refused to turn them over (as Bromwich laid out in a letter to Michael Horowitz last week, after inventing reasons not to share the materials that might make McCabe’s testimony more useful, FBI admitted they wouldn’t turn them over because of McCabe’s lawsuit against the Bureau).

But another of the conditions was that the testimony be in person. Bromwich noted that Republicans spoke over both Sally Yates and Jim Comey when they earlier testified remotely. “[A] witness answering questions remotely via videoconference is at a distinct disadvantage in answering those questions,” Bromwich wrote. “A fair and appropriate hearing of this kind – which is complex and contentious – simply cannot be conducted other than in person.”

But the COVID outbreak among those who attended the Federalist Society super-spreader event last weekend has made such in-person testimony too dangerous.

Mr. McCabe was still prepared to testify voluntarily and in person on October 6 as recently as the latter part of this past week. However, since that time, it has been reported that at least two members of your Committee – Senators Mike Lee and Thom Tillis – have tested positive for Covid-19, and it may well be that other members of the Committee and staff who plan to attend the hearing will test positive between now and then, or may have been exposed to the virus and may be a carrier. Under these circumstances, an in-person hearing carries grave safety risks to Mr. McCabe, me, and senators and staff who would attend.

McCabe is not wrong. There's abundant reason to distrust Lindsey Graham's claimed negative test. Mike Lee was haranguing publicly at several public events last week before he was diagnosed. And Chuck Grassley (who has far more mask discipline than his colleagues, but who was unmasked for part of the Comey hearing last week) refuses to be tested.

Still, it's crazy that SJC has become too dangerous for a regular oversight hearing, but Lindsey still plans to push on with the Supreme Court confirmation process that caused that COVID outbreak.