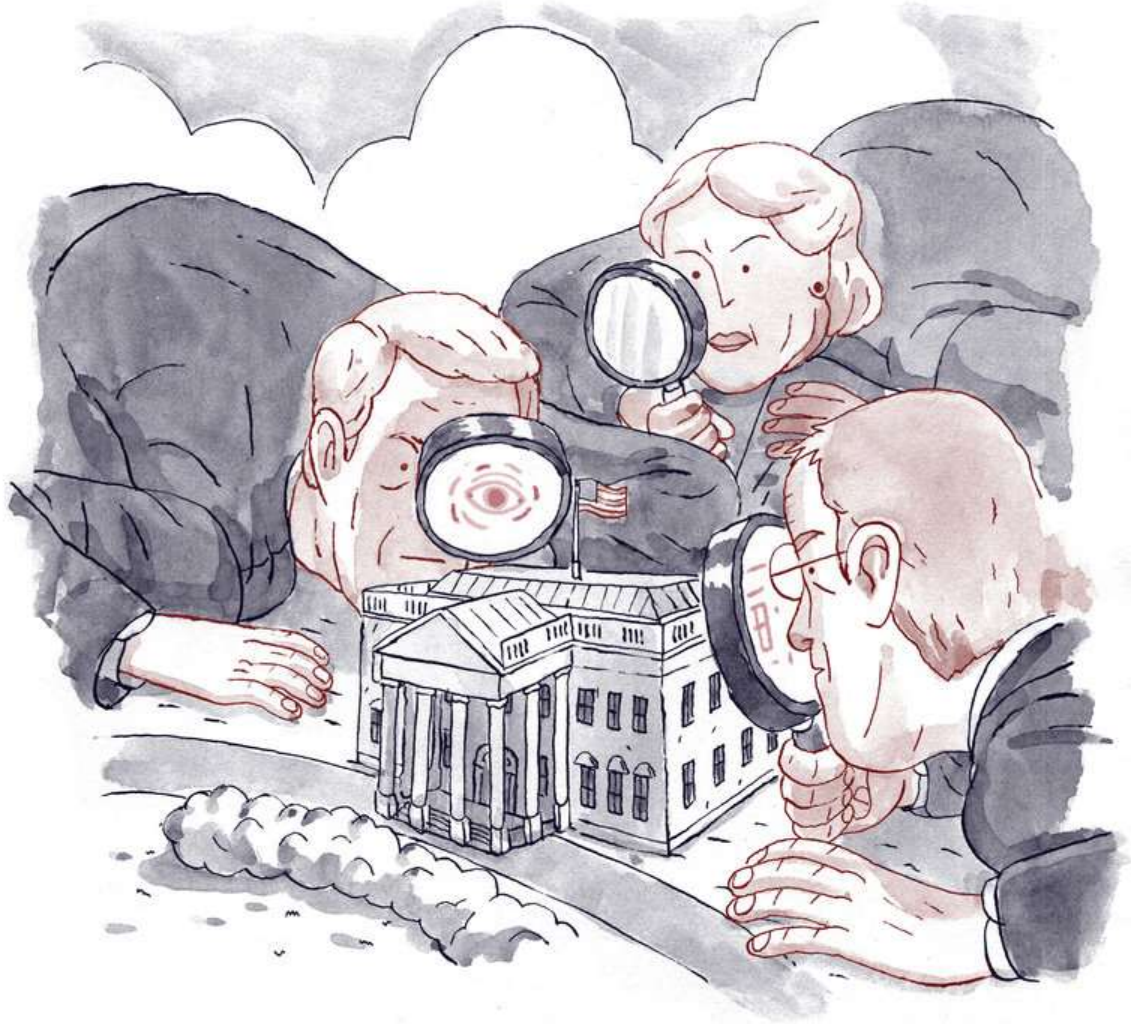


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Yes, Trump Is Being Held Accountable

By JACK GOLDSMITH | MARCH 15, 2017



Credit Tim Peacock

Many critics of President Trump, including a sizable number of Democrats in the Republican-controlled Congress, are wary about the incipient congressional investigations of Russia's interference in the 2016 presidential election and the possibly related Russian entanglements with the Trump administration and campaign. They suspect that an independent investigation from outside the government is the only hope for checking a president who seems oblivious

to press criticism, whose party controls Congress and who has the executive branch under his thumb.

These worries are understandable but misplaced. There might be a time when an independent investigation becomes necessary, but we are not nearly there yet. For now, our constitutional system is working well to ferret out the truth and to hold Mr. Trump and his subordinates accountable.

The most important checks on the Trump presidency come from inside it. The Federal Bureau of Investigation is reportedly [conducting at least three investigations](#) related to Russia, the election and the administration. Whatever one thinks about his pre-election maneuvers, the F.B.I. director, James B. Comey (a former colleague of mine at the Justice Department), has proved to be an independent actor, and he has every interest in pursuing the cases wherever they lead.

Mr. Trump could fire Mr. Comey on a whim, but that would not kill the F.B.I. investigation. Rather, just as President Richard Nixon hastened his impeachment with the Watergate-related firings known as the “Saturday Night Massacre,” canning Mr. Comey would only heighten the public’s and Congress’s suspicions about Mr. Trump’s guilt and increase pressure on the F.B.I. and others to get to the bottom of the Russia matter.

Many worry that even if the F.B.I. were to conduct an investigation that warranted criminal proceedings, the attorney general, Jeff Sessions, a close ally of the president, would squelch them. But after examining the department’s rules and consulting its ethics experts, Mr. Sessions has recused himself “from any existing or future investigations of any matter relating in any way to the campaigns for president of the United States.” Those investigations will now be supervised by Rod J. Rosenstein, soon to be the deputy attorney general, who is a career prosecutor of undoubted independence and an expert on national security and public corruption.

Another reason to think the existing process is working to keep the president in check are the plentiful leaks from the executive branch that have revealed a great deal about the Russian imbroglio. Leaks of this sort are a predictable response to a perception of illegitimacy or overreach inside the executive branch. It is hard to know at this point which leaks are justified and which are illegitimate. But overall they function as a significant constraint on this presidency.

The leaks have also shown the strength of the press, belying worries that journalists would be chilled by President Barack Obama’s crackdown on leaks and Mr. Trump’s unusual attacks on

the news media. The Fourth Estate is covering the Trump presidency with unusual critical vigor, reporting concrete and damning details as if it had a seat inside the Oval Office.

Finally, there are the investigations by Congress. Prominent Republicans such as Senator John McCain of Arizona and Senator Lindsey Graham of South Carolina have questioned the president's honesty on the Russia matter. The Senate Intelligence Committee is conducting an "[independent review](#)" and has already been briefed by Mr. Comey. The House Intelligence Committee will begin hearings next week. A subcommittee of the Senate Judiciary Committee is also investigating the matter and has pledged "to ensure that the F.B.I.'s work is free of all political influence."

While there is no doubt that partisan politics will inform what many in both congressional parties do in this matter, one should not overlook what is truly remarkable here: In the second month of a new presidency, several bodies in a Congress controlled by the president's party are conducting high-profile, politically fraught and hard-to-control investigations that potentially implicate current and former administration officials and former campaign officials.

All of these actors and institutions are holding the Trump presidency to account. They are endeavoring to uncover the truth about the manifold Russian mysteries. And they can, if they see fit, take action with effects ranging from publicity and embarrassment to political damage with electoral consequences to criminal prosecution to impeachment if appropriate.

It's true that the process of accountability is halting and frustratingly slow. But this is as it should be. The stakes could not be higher for our democracy. Ascertaining the truth is vital, and respect for the innocent is as important as identification of wrongdoing. It is thus crucial that the complex and elusive facts be sorted out in a fair and procedurally rigorous manner, and that the law be applied with deliberation and good judgment.

Justice seems elusive here because it is so plodding. But plodding justice is our best chance for a legitimate resolution to this mess.

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