

March 26, 2018

Chairman Jay Barnes
Vice Chairman Donald Phillips
Representative Kevin Austin
Representative Shawn Rhoads
Representative Jeanie Lauer
Representative Gina Mitten
Representative Tommie Pierson, Jr.

Dear Reps. Barnes, Phillips, Austin, Rhoads, Lauer, Mitten and Pierson:

First and foremost, we wish to reiterate what we told the Chairman and Vice-Chairman of the Committee when we met with them last week: Governor Greitens will cooperate fully with the work of this committee.

Rep. Barnes has made two demands of the Governor: 1) That we let him know by 5:00 p.m. today whether the Governor will testify and 2) that if the Governor agrees to testify, he do so within two weeks.

On the first request, our answer is: yes, the Governor is willing to provide testimony to the committee, as well as all necessary documentation, discovery, depositions, and other key information. Rep. Barnes' second request, however, is unreasonable. This Committee was formed to investigate allegations made by St. Louis City Circuit Attorney Kim Gardner. Trial in that case is 7 weeks away, and **the court just today ordered that the case proceed to a trial by jury**. Moreover, the court's restrictions on what information can and cannot be released make it impossible for the Governor to provide what the Committee needs to complete its work.¹ That includes discovery information from the Circuit Attorney, transcripts of depositions of key witnesses, and other critical information that is not currently available to the Committee, **by court order**. That information will be available only after the criminal trial is concluded.

The Committee, the House, and the people of Missouri deserve a full and complete report. But due to no fault of the Committee or the Governor, it is impossible for the Committee to accomplish that goal by April 9. **The timing of the release of any documents or reports from this Committee is all the more important in light of a jury trial. Anything published by this Committee will no doubt influence the jury pool and the public about this case, and thus it is vital that the Committee's work reflect the full facts.** That is why we respectfully request that the members of the Committee grant yourselves a brief extension of a few weeks so that you may complete a thorough and comprehensive investigation.

Moreover, as you all know, the Governor is unable to testify prior to the criminal proceedings, as doing so would violate his right to a fair trial. He would be under no such restriction once the trial concludes. In other words, even though the Governor can and will provide information to the Committee over the next two weeks not subject to the court's orders, critical information that the Committee needs to complete its work will not legally be available by the Committee's original April 9 deadline.

For example, while the Committee has heard from some witnesses, there are others who have and will testify at depositions, **which by court order the Committee will not have access to before the original**

¹ As you may be aware, Mr. Dowd had spoken with the Chairman weeks ago and offered to provide the Committee with discovery in the criminal case, but at the request of the Circuit Attorney, the judge ordered that no third parties, including this Committee, may obtain discovery materials from the case, including information derived from the Circuit Attorney's investigation and exculpatory evidence (evidence showing the Governor is innocent).

April 9 deadline. The Committee deserves to see those accounts, many of which show that accusations made against the Governor are false. The Committee also deserves to see all of the discovery material assembled by the Circuit Attorney herself, some of which shows that the Governor is innocent. By court order, this information may not be shared with the Committee until after the trial.

In order to get that key information, the Committee ought to give itself a brief extension, through just after the criminal trial has concluded. The Circuit Court trial will begin on May 14 and is expected to last only two or three days. A brief extension of five weeks past the Committee's deadline will give the Committee all the information and evidence it cannot currently obtain.

Although the Governor asked the Court for a trial date of April 3—in part so that the trial would be completed before the Committee's report was due—the Court set trial for shortly *after* the Committee's current due date. Fortunately, the Resolution authorizing the Committee and its work allows it to extend its deadline and permits such an extension by simple majority vote of the Committee. In a matter of such weight and seriousness, surely all of us—and the people of Missouri—will agree that completing a full, thorough, and accurate report is more important than sticking to an arbitrary schedule, particularly when the extension need only be for a few weeks.

The Committee Chairman has stated that the “committee's job is to investigate the underlying facts and report back to the General Assembly.” A brief extension will enable the Committee to do just that: conduct a thorough, complete, fair investigation of *all* the underlying facts. On the other hand, absent a brief extension, the Committee:

- **Will not have the benefit of the discovery in the pending case, which includes information that exonerates Governor Greitens.**
- **Will not have the benefit of the depositions taken in the pending case, which include cross-examinations and testimony of witnesses, some who have testified before the committee and others who have not.**
- **Will not have the benefit of testimony and evidence elicited at trial.**
- **Will not have the testimony of the Governor.**
- **Will disseminate incomplete, false and misleading information that will cause damage to entirely innocent people, some of whom are families and children.**
- **Will cause pretrial publicity that interferes with the fairness and due process of the Circuit Court trial and unduly influences the jury pool.**
- **Will cause disruption of the legislative session and confusion among legislators who will be justifiably perplexed as to what, if any, action they should take based on an incomplete and inaccurate report.**

Based on all of the above, we see no compelling reason not to provide a brief extension of this Committee's work. Over 36 months have passed since the incidents being investigated by this Committee allegedly took place. Surely the committee can spare six additional weeks to get a full and complete accounting of what actually occurred. The matters being investigated by the Committee are not urgent, nor, for that matter, are they matters directly related to the continued functioning of state government.

During the course of this investigation, the Governor has continued to govern, just as he will during the five additional weeks the committee ought to take to complete its work.

Please take an additional five weeks to do a complete and thorough review of *all* of the underlying facts and the evidence as shown at trial in order to write a full, fair, complete, and truthful report. We strongly believe that a rushed, incomplete, inaccurate report will not serve the Committee, the House, or the people of Missouri well. Speed is not of the essence here; accuracy is.

We respectfully request the Committee approve this brief extension to provide the public and your fellow lawmakers with a complete and accurate report that preserves the constitutional rights of every person involved and does not unduly interfere with the Governor's right to a fair trial by an untainted jury. There is no compelling reason not to allow yourselves more time to do this work right, and we respectfully submit that doing so would be in the interest of the Committee, the House of Representatives, and the people of Missouri.

Respectfully submitted,

/s/ Edward L. Dowd
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cc: Speaker Todd Richardson