

CITIZENS' GRAND JURY

**THE PEOPLE OF THE UNITED STATES OF
AMERICA,**

Plaintiff,

v.

ROBERT SWAN MUELLER III

Defendant.

JURY INSTRUCTIONS

INTRODUCTION

(1) Members of the jury, now it is time for you to be instructed about the law you must follow in deciding whether the criminal charges are proper. State or federal law does not bind the Citizens' Grand Jury. Ethics, morality and justice bind it.

(2) I will start by explaining your duties and the general rules that apply in every criminal case.

(3) Then I will explain the elements of the crimes that Defendant Mueller, by and through his prosecutorial and other staff he hired and supervised, including but not limited to his press secretary Peter Carr, is accused of committing. You may think of the "elements" of the crimes as the essential ingredients, or important parts, of the proof of the crimes. Defendant Mueller hired several attorneys to work under him and serve as prosecutors, including Jeannie S. Rhee, Andrew D. Goldstein, Aaron S.J. Zelinsky, and L. Rush Atkinson. Defendant Mueller, as their supervisor and employer, is held liable and responsible for the wrongful acts of his employees and agents, pursuant to the longstanding legal doctrine *respondeat superior*, as the coercion and intimidation occurred within the scope of his prosecutors' employment.

(4) Then I will explain some rules that you must use in evaluating particular testimony and proof.

(5) And last, I will explain the rules that you must follow during your deliberations concerning whether the criminal chargers are proper.

(6) Please listen very carefully to everything I say.

JURORS' DUTIES

(1) You have two main duties as jurors. The first one is to decide what the facts are from the proof that you saw and heard here today. Deciding what the facts are is your job, not mine, and nothing I have said or done during this proceeding was meant to influence your decision about the facts in any way.

(2) Your second job is to take the law that I give you, apply it to the facts, and decide if the Citizens' Grand Jury Prosecutor has shown that there is probable cause to bring the criminal charges against Defendant Mueller. It is my job to instruct you about the law, and you are bound by the oath you took at the beginning of the proceeding to follow the instructions that I give you, even if you personally disagree with one or more of them. All the instructions are important, and you should consider them together as a whole.

(4) Do your jobs fairly. Do not let any bias, sympathy or prejudice that you may feel for or against either side influence your decision in any way.

BURDEN OF PROOF – PROBABLE CAUSE

(1) "The grand jury sits not to determine guilt or innocence, but to assess whether there is adequate basis for bringing a criminal charge. It is the grand jury's function not to inquire upon what foundation the charge may be denied, or otherwise to try the suspect's defenses, but only to examine upon what foundation the charge is made by the prosecutor." *United States v. Williams*, 504 U.S. 36, 51-52 (1992). The Citizens' Grand Jury Prosecutor does not have to present substantial exculpatory evidence. "[T]he grand jury can investigate merely on suspicion that the

law is being violated, or even because the grand jury wants assurance that the law is not being violated.” *Id.* at *8.

(2) As you know, Defendant Mueller has not pleaded to the crimes charged in the indictment. The indictment is not any proof at all of guilt. It is just the formal way that the Citizens’ Grand Jury Prosecutor tells the defendant what crimes he is accused of committing. It does not even raise any suspicion of guilt.

(3) No defendant has any obligation to present any proof at all, or to prove to you in any way that he is innocent. It is up to the Citizens’ Grand Jury Prosecutor to show that the indictment is proper and that there is probable cause for bringing such criminal charges. You must find that no criminal charges should be brought against Defendant Mueller if the Citizens’ Grand Jury Prosecutor has not shown you that there is a sufficient reason upon the facts to believe that these crimes have been committed.

(4) The Citizens’ Grand Jury Prosecutor must show every element, that is, -- every important part -- of the crimes charged only by the low threshold of “by probable cause.”

(5) Showing “probable cause” means a sufficient reason based upon known facts to believe a crime has been committed or that certain property is connected with a crime. Probable cause is often subjective but must exist prior to arrest, search or seizure.

(6) If you are convinced that the Citizens’ Grand Jury Prosecutor, through the proof, has shown by probable cause that the Indictment is proper, then you must vote to secure the indictment. If you are not convinced by probable cause, then you must vote not to initiate the charges against Defendant Mueller.

PROOF DEFINED

(1) You must make your decision based only on the proof that you saw and heard here. Do not let rumors, suspicions, or anything else that you may have seen or heard outside of this proceeding influence your decision in any way.

(2) Citizens' Grand Juries are not constrained to consider only evidence which would be admissible into a citizens' court or even a federal or state court. Even hearsay testimony and documentary proof may be considered weighed. *United States v. Williams*, 504 U.S. 36, 50 (1992).

(3) The Citizens' Grand Jury Prosecutor's statements and arguments are not proof. His questions and objections are not proof. The Indictment is not proof. Comments and questions are not proof. Do not speculate about what some witness might have said or what some exhibit might have shown. Such things are not proof, and you are bound by your oath not to let them influence your decision in any way.

(4) Make your decision based only on the proof put forth by the Citizens' Grand Jury Prosecutor, as I have defined it here, and nothing else.

CONSIDERATION OF PROOF

You should use your common sense in weighing the proof. Consider it in light of your everyday experience with people and events, and give it whatever weight you believe it deserves. If your experience tells you that certain proof reasonably leads to a conclusion, you are free to reach that conclusion.

DIRECT AND CIRCUMSTANTIAL PROOF

(1) Now, we have already discussed the terms "direct proof" and "circumstantial proof" for the purposes of the Indictment.

(2) Direct proof is simply proof like the testimony of any eyewitness which, if you believe it, directly proves a fact. If a witness testified that he saw someone walking across a field and you believed him, that would be direct proof that such a thing had happened.

(3) Circumstantial proof is simply a collection of circumstances that indirectly proves a fact. If a witness said that he saw fresh footprints in newly fallen snow, that would be circumstantial proof from which you could conclude that someone had recently been walking there.

(4) Legally, there is no difference between direct and circumstantial proof. The law does not say that one is necessarily any better proof than the other. You should consider all the proof, both direct and circumstantial, and give it whatever weight you believe it deserves.

CREDIBILITY OF WITNESSES

(1) Part of your job as jurors is to decide how believable each witness was. This is your job, not mine. It is up to you to decide if a witness' testimony was believable, and how much weight you think it deserves. You are free to believe everything that a witness said, or only part of it, or you can believe none of it at all (even if the witness has not been contradicted). But you should, of course, act reasonably and carefully in making these decisions.

(2) Let me suggest some things for you to consider in evaluating each witness' testimony.

(A) Ask yourself if the witness was able to clearly see or hear the events. Sometimes even an honest witness may not have been able to clearly see or hear what was happening, and may make a mistake.

(B) Ask yourself how good the witness' memory seemed to be. Did the witness seem able to accurately remember what happened?

(C) Ask yourself if there was anything else that may have interfered with the witnesses' ability to perceive or remember the events.

(D) Ask yourself how the witness looked and acted while testifying. Did the witness seem honestly to be trying to tell you what happened? Or did the witness seem to be evasive, confused or even lying?

(E) Ask yourself if the witness had any relationship to either side of the case, or anything to gain or lose that might influence the witness' testimony. Ask yourself if the witness had any bias, or prejudice, or reason for testifying that might cause the witness to lie or to slant testimony in favor of one side or the other.

(F) Ask yourself if the witness testified inconsistently, or if the witness said or did anything off the stand that is not consistent with what the witness said while testifying. If you think that the witness was inconsistent, ask yourself if this makes the witness' testimony less believable. Sometimes it may; other times it may not. For example, you might consider whether the inconsistency was understandable or explainable. You might also ask yourself if it seemed like an insignificant or common mistake, or if it seemed to indicate a deliberate attempt to mislead.

(G) Finally, ask yourself how believable the witness' testimony was in light of all the other proof. Was the witness' testimony supported or was it contradicted by other proof that you found believable? If you think that a witness' testimony was contradicted by other proof, keep in mind that people sometimes do forget things, and that even two honest people who witness the same event may not describe it exactly the same way.

(3) These are only some of the things that you may consider in deciding how believable or reliable each witness was. You may also consider other things that you think shed light on the witness' believability. Use your common sense and your everyday experience in dealing with

other people. And then decide what testimony you believe, and how much weight -- how much significance -- you think it deserves.

NUMBER OF WITNESSES

- (1) One more point about the witnesses. Sometimes jurors wonder if the number of witnesses who testified on a particular point, or on one side or the other, makes any difference. It does not.
- (2) Do not make any decisions based only on the number of witnesses who testified. What is more important is how believable the witnesses were, and how much weight you think their testimony deserves. Concentrate on that, not the numbers.

ELEMENTS OF THE OFFENSE: INTRODUCTION

- (1) That concludes the part of my instructions explaining your duties and the general rules that apply in every criminal indictment. In a moment, I will explain the significant elements of the crimes that the defendant is accused of committing.
- (2) Your job is limited to deciding whether the Citizens' Grand Jury Prosecutor has shown by probable cause that the criminal charges should be brought against Defendant Mueller. Defendant Mueller hired, supervised and directed, attorneys Jeannie S. Rhee, Andrew D. Goldstein, Aaron S.J. Zelinsky, and L. Rush Atkinson. Through the course of the alleged Russian investigation, these prosecutors, under the supervision of and at the direction of Defendant Mueller, dealt directly with Dr. Corsi. Also keep in mind that whether anyone else should be prosecuted and convicted for this crime is not a proper matter for you to consider. The possible guilt of others is no defense to a criminal charge. Your job is to decide if the Citizens' Grand Jury Prosecutor has shown by probable cause that the criminal charges against Defendant Mueller have merit. Do not let the possible guilt of others influence your decision in any way.

COUNT 1 (Fed. R. Crim. P. 6(e)(2))

Count 1 of the Indictment charges Defendant Mueller with violating Federal Rule of Criminal Procedure 6(e)(2), which is a violation of federal law. In order to find that the Indictment should be brought against Defendant Mueller, you must find that the Citizens' Grand Jury Prosecutor showed by probable cause each of the following three elements: (1) Defendant Mueller worked as an attorney for the Office of the Special Counsel, which is a government office; (2) that he disclosed a matter concerning the grand jury; (3) to a person unauthorized to receive the information.

You must find that the Citizens' Grand Jury Prosecutor has shown by probable cause all three of these things in order to find that the criminal charges can be brought against Defendant Mueller.

COUNT 2
(18 U.S.C. § 401(2))

Count 2 of the Indictment charges Defendant Mueller with the unauthorized disclosure of grand jury information, which is contempt of court and a violation of federal law. In order to find that the Indictment should be brought against Defendant Mueller, you must find that the Citizens' Grand Jury Prosecutor showed by probable cause each of the following four elements: (1) Defendant Mueller was an officer of a court of the United States; (2) that he misbehaved; (3) that the misbehavior was in Defendant Mueller's official transactions; and (4) that the misbehavior was committed with criminal intent. "Criminal intent" is defined as a volitional act done by one who knows or should reasonably be aware that his conduct is wrongful.

You must find that the Citizens' Grand Jury Prosecutor has shown by probable cause all four of these things by probable cause in order to find that the criminal charges can be brought against Defendant Mueller.

COUNT 3
(18 U.S.C. § 641)

Count 3 of the Indictment charges Defendant Mueller with theft of intangible, government property, which is a violation of federal law. In order to find that the Indictment should be brought against Defendant Mueller, you must find that the Citizens' Grand Jury Prosecutor showed by probable cause each of the following four elements: (1) the property described belonged to the United States; (2) Defendant Mueller knowingly converted the property to his own use or someone else's use; (3) Defendant Mueller knowingly and willfully intended to deprive the owner of the use or benefit of the property; and (4) the property had a value greater than \$1,000.

You must find that the Citizens' Grand Jury Prosecutor has shown by probable cause all four of these things in order to find that the criminal charges can be brought against Defendant Mueller.

COUNT 4
(18 U.S.C. § 1512(b)(1) and (2))

Count 4 of the Indictment charges Defendant Mueller with tampering with a witness, which is a violation of federal law. In order to find that the Indictment should be brought against Defendant Mueller, you must find that the Citizens' Grand Jury Prosecutor showed by probable cause each of the following four elements: (1) that Defendant Mueller knowingly used intimidation or threatened or corruptly persuaded Dr. Corsi or attempted to do so or engaged in misleading conduct toward Dr. Corsi; and (2) that Defendant Mueller acted with intent to influence the testimony of Dr. Corsi in the grand jury proceeding; (3) that Defendant Mueller knew or should have known that the grand jury proceeding was pending or was likely to be instituted; and (4) that the grand jury proceeding was a federal proceeding.

You must find that the Citizens' Grand Jury Prosecutor has shown by probable cause all four of these things in order to find that the criminal charges can be brought against Defendant Mueller.

COUNT 5
(18 U.S.C. § 1513)

Count 5 of the Indictment charges Defendant Mueller with retaliating against or tampering with against a witness, which is a violation of federal law. In order to find that the Indictment should be brought against Defendant Mueller, you must find that the Citizens' Grand Jury Prosecutor showed by probable cause each of the following four elements: (1) that Defendant Mueller knowingly engaged in conduct; (2) that Defendant Mueller's conduct caused damage to Dr. Corsi's livelihood; (3) that Defendant Mueller acted with specific intent to retaliate against Dr. Corsi for not providing false testimony; and (4) that the grand jury proceeding was a federal proceeding.

You must find that the Citizens' Grand Jury Prosecutor has shown by probable cause all four of these things in order to find that the criminal charges can be brought against Defendant Mueller.

COUNT 6
(Violation of 18 U.S.C. § 1505)

Count 6 of the Indictment charges Defendant Mueller with obstructing justice before a department, agency or Congress, which is a violation of federal law. In order to find that the Indictment should be brought against Defendant Mueller, you must find that the Citizens' Grand Jury Prosecutor showed by probable cause each of the following four elements: (1) there was a proceeding being conducted by any department or agency of the United States; (2) that Defendant Mueller knew of the pending proceeding; (3) that Defendant Mueller endeavored to

influence, obstruct or impede the proceeding; and (4) that Defendant Mueller did so corruptly, or by threats or force, or by any threatening letter or communication. “Corruptly” means to act knowingly and dishonestly, with specific intent to subvert or undermine the integrity of a proceeding. “Corruptly” means nothing more than an intent to obstruct the proceeding. A corrupt intent may be defined as the intent to obtain an improper advantage for oneself or someone else, inconsistent with official duty and the rights of others.

You must find that the Citizens’ Grand Jury Prosecutor has shown by probable cause all four of these things in order to find that the criminal charges can be brought against Defendant Mueller.

COUNT 7
(Violation of 18 U.S.C. § 1622)

Count 7 of the Indictment charges Defendant Mueller with conspiracy to suborn perjury, which is a violation of federal law. In order to find that the Indictment should be brought against Defendant Mueller, you must find that the Citizens’ Grand Jury Prosecutor showed by probable cause each of the following three elements: (1) Defendant Mueller voluntarily and intentionally persuaded Dr. Corsi to commit perjury; (2) Defendant Mueller did so with the intent that Dr. Corsi would deceive the grand jury; and (3) Dr. Corsi would have committed perjury in that he would have testified under oath, that testimony would have been false, at the time he testified falsely, he knew that the testimony was false and Dr. Corsi gave such testimony voluntarily and intentionally. Conspiracy to suborn perjury may be prosecuted irrespective of whether actual perjury has been committed.

You must find that the Citizens’ Grand Jury Prosecutor has shown by probable cause all three of these things in order to find that the criminal charges can be brought against Defendant Mueller.

COUNT 8
(18 U.S.C. § 1001)

Count 8 of the Indictment charges Defendant Mueller with attempting to illicit and provide false statements to the grand jury, which is a violation of federal law. In order to find that the Indictment should be brought against Defendant Mueller, you must find that the Citizens' Grand Jury Prosecutor showed by probable cause each of the following five elements: (1) Defendant Mueller attempted to force Dr. Corsi to make a false statement and attempted to make use of the statement; (2) the statement would have been false; (3) the falsity concerned a material matter; (4) Defendant Mueller acted willfully, knowing that the statement would be false; and (5) the false statement was attempted to be used for a matter within the jurisdiction of a department or agency of the United States.

You must find that the Citizens' Grand Jury Prosecutor has shown by probable cause all five of these things in order to find that the criminal charges can be brought against Defendant Mueller.

COUNT 9
(18 U.S.C. § 2381)

Count 9 of the Indictment charges Defendant Mueller with treason, which is a violation of federal law. In order to find that the Indictment should be brought against Defendant Mueller, you must find that the Citizens' Grand Jury Prosecutor showed by probable cause each of the following four elements: (1) that Defendant Mueller owed an allegiance to the United States; (2) that Defendant Mueller did try to wage war against the United States, or did give aid and comfort to the enemies of the United States; (3) that two witnesses testified to the same overt act of waging war or giving aid and comfort; and (4) Defendant Mueller acted with a purpose to aid the enemy.

You must find that the Citizens' Grand Jury Prosecutor has shown by probable cause all four of these things in order to find that the criminal charges can be brought against Defendant Mueller.

EXPERIMENTS, RESEARCH AND INVESTIGATION

- (1) Remember that you must make your decision based only on the proof that you saw and heard here. This means that you must not try to gather any information about the case on your own while you are deliberating.
- (2) For example, do not conduct any experiments inside or outside the jury room; do not bring any books, like a dictionary, or anything else with you to help you with your deliberations; do not conduct any independent research, reading or investigation about the case; and do not visit any of the places that were mentioned during this proceeding.
- (3) Make your decision based only on the proof that you saw and heard here.

DUTY TO DELIBERATE

- (1) Now that all the proof and arguments are complete, you are free to talk about the case. In fact, it is your duty to talk with each other about the proof, and to make every reasonable effort you can to reach unanimous agreement. Talk with each other, listen carefully and respectfully to each other's views, and keep an open mind as you listen to what your fellow jurors have to say. Try your best to work out your differences. Do not hesitate to change your mind if you are convinced that other jurors are right and you are wrong.
- (2) But do not ever change your mind just because other jurors see things differently, or just to get the case over with. In the end, your vote must be exactly that -- your own vote. It is important for you to reach unanimous agreement, but only if you can do so honestly and in good conscience.

(3) No one will be allowed to hear your discussions, and no record will be made of what you say.

So you should all feel free to speak your minds.

(4) Listen carefully to what everyone else has to say, and then decide for yourself if the Citizens' Grand Jury Prosecutor has shown that there is probable cause to bring the criminal charges against Defendant Mueller.

CITIZENS' GRAND JURY PROSECUTOR HAS NO OPINION

Let me finish up by repeating something that I said to you earlier. Nothing that I have said or done during this proceeding was meant to influence your decision in any way. You decide for yourselves if the Citizens' Grand Jury Prosecutor has shown that there is probable cause to bring the criminal charges against Defendant Mueller.