

OPINION & EDITORIALS

Rep. Katko, Congress must stand up for independent law enforcement (Commentary)

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In this July 7, 2017, file photo, President Donald Trump meets with Russian President Vladimir Putin at the G-20 Summit in Hamburg. Trump signed on Aug. 2, what he called a "seriously flawed" bill imposing new sanctions on Russia, pressured by his Republican Party not to move on his own toward a warmer relationship with Moscow in light of Russian actions. (Evan Vucci / AP)

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Rep. John Katko's recent vote to impose sanctions on Russia shows that he understands what all American law enforcement and intelligence agencies have confirmed -- Russia sought to influence the election that produced a victory for

Vladimir Putin's admirer, Donald Trump. These agencies have a strong professional ethos of carefully considering factual materials and none of them are bastions of liberalism, so Katko is right to credit their unanimous conclusion. But Trump's threats to fire those investigating Russian interference in our election and to pardon those who may have conspired with the Russians sends Putin a very different message than the sanctions send: It invites future interference by suggesting that we are too weak to thoroughly investigate and resist Russian encroachment. Katko must act now to prevent Trump from encouraging Russian intervention by carrying out his threats to undermine independent law enforcement.

As a former prosecutor, Katko surely understands the importance of independent law enforcement. It is especially crucial when the integrity of our elections is at stake. While we cannot know if Trump or his associates conspired with the Russians in 2016 until the investigation is completed, there are many reasons that a thorough investigation is needed.

Trump openly called on the Russians to find and release 30,000 Hillary Clinton emails during the campaign. Trump's campaign manager, Paul Manafort, son Donald Trump Jr. and son-in-law Jared Kushner met with Kremlin-connected Russians to discuss Russian-gathered materials incriminating Clinton, a meeting all admitted to attending. Furthermore, many Trump aides denied ever meeting with Russians and later admitted that they had when contrary evidence emerged, suggesting that they are hiding something. And Trump has financial ties with the Russians going back many years, which may have made him financially beholden to them. Finally, our intelligence services found that Russia had obtained compromising, albeit unverified, salacious material on Trump.

None of this proves that Putin blackmailed or bribed Trump or his aides into conspiring with the Russians. But since the facts show that Trump and his aides invited Russian interference and the Russians did intervene, we need an independent investigation to see whether these things are related, including an investigation of possible financial entanglements predating the election.

The Framers sought to ensure law enforcement's independence by requiring government officials to swear an oath to obey the Constitution, deliberately abandoning the tradition of swearing allegiance to the head of state. Alexander Hamilton explained that the Constitution seeks to discourage employment of officials

with the "pliancy to render them obsequious instruments of [the President's] pleasure." The Framers expected government officials to faithfully follow the law, even when it upsets the President.

We can see in countries like Russia, Turkey and Hungary what happens when legislators do not zealously protect norms of prosecutorial independence. Law enforcement agencies become servants of the head of state, who generally seeks to enrich himself at the expense of the citizenry. The rule of law crumbles and the government simply jails or even kills the ruler's political opponents.

President Recep Tayyip Erdogan of Turkey recently seized 950 private companies controlled by political opponents, a move made possible by his replacement of civil servants with quislings like those Hamilton warned against. The destruction of the rule of law in these countries did not occur overnight. It occurred incrementally through steps like we have recently seen -- a president firing independent civil servants committed to the rule of law and demanding personal fealty from government officials. We should not risk letting something like that happen here, even if the risk seems remote to some.

Putin's goal for Russian intervention in elections around the world is crystal clear -- he wants to break the back of democracy. Whether Trump is purposely serving that goal or not, his attacks on the courts, the intelligence service, the media and now the Justice Department are consistent with that goal. Autocrats undermine competing sources of power, thereby destroying the checks and balances essential to democracy.

The Framers envisioned a patriotic Congress as the primary check on a president who undermines the rule of law. They created the impeachment mechanism not primarily to punish crime, but as a remedy for any serious misconduct in office. Katko should warn Trump not to fire investigators of Russian interference or pardon those under investigation, preferably with support from patriotic Republicans and his colleagues from across the aisle. And it would be appropriate and effective to back this warning up with a promise of impeachment if Trump continues his assault on independent law enforcement.