

## Special Prosecutor vs. Independent Counsel/Independent Commission

As you know, House and Senate committees as the Department of Justice are investigating potential interference with the 2016 Presidential election, but there is support for adding investigation that is independent and leads to public sharing of findings and consequences for any wrongdoing. Both Congressional chambers have introduced bills calling for an Independent Commission to investigate, including Representative Eric Swalwell's *HR 356 Protecting Our Democracy Act* (which has bipartisan support) and Senator Ben Cardin (and 24 Democratic co-sponsor) *S27* calling for an independent commission, which recommend establishment of a commission of independent experts. Others, including Representative Jerry Nadler and many others recently, call for a Special Prosecutor.

The IndivisibleHoCo (MD) C-I (Conflicts of Interest) team has researched the differences between Special Prosecutor and Independent Counsel/Independent Commission (both terms are used interchangeably):

- **Special Prosecutor** is generally a lawyer outside the government appointed by the Attorney General or Congress to investigate a government official for misconduct while in office: think Watergate, Whitewater.... The advantage is that this person would be independent and nonpartisan, investigating and then determining where resources would be best spent. *Special Prosecutors can pursue legal action.*
- **Independent Counsel** are attorneys/judges chosen by Congress who investigate and prosecute criminal activity in government: think 9/11 Commission. It is a bipartisan commission with the goal to inform the legislature and public about what has occurred, but it does not litigate.

Although either option requires bipartisan support, and a Special Prosecutor must be approved by the President, this is the time to tell our Members of Congress we support such actions.