



Written by [Steve Byas](#) on November 28, 2017

Mueller Record: Can He Be Trusted with Power?

Robert Mueller has been handed a great amount of power as the “independent counsel” investigating alleged Russian interference in the presidential election. Can he be trusted with that power?



Writing in the 19th century, Lord Acton famously said, “Power tends to corrupt, and absolute power corrupts absolutely.” History is full of examples of the truth of Acton’s remarks, from the Bible to modern times. We all can point to obvious examples such as King Henry VIII and totalitarian dictators such as Hitler and Stalin, but we can even learn the truth of Acton’s remarks with the example of the Israelite King David. David was called “a man after God’s own heart,” but even he succumbed to the temptation to abuse his monarchial powers in a selfish way.

With this historical background, we should view with skepticism the idea that an “independent” counsel (more accurately called by the office’s original name, “special prosecutor”) can be trusted to use the vast powers of that office, despite having no real check on his prosecutorial discretion.

Such is the case with Robert Mueller (shown), who was given the power to investigate and possibly bring charges against members of the Trump presidential campaign, in regard to allegations of collusion with the Russian government to influence the outcome of the 2016 presidential campaign.

While Mueller is portrayed in the media as a non-partisan prosecutor who is simply seeking justice, his record as the head of the FBI indicates that he has sought convictions more than he has sought justice.

Mueller became the head of the FBI one week before the September 11, 2001 attacks on America, having been appointed by President George W. Bush. The next morning, a senior agent had been given only one hour to prepare for a presentation on what had happened. According to the *Los Angeles Times*, when the agent told Mueller and Attorney General John Ashcroft that accurate information had not yet been “established,” Mueller exploded into a profanity-laced tirade, demanding answers.

Shortly after that Mueller said the role of the FBI would be to prevent a second terrorist attack.

This is the background for Mueller’s thinking when in 2001 some letters containing powdered anthrax were received in government buildings in Washington, D.C. According to Michael Mason, then head of the FBI’s Washington field office, Mueller took personal leadership over the anthrax investigation.

The FBI quickly centered its investigation on Steven Hatfill, a virologist who worked at the Army laboratories at Ft. Detrick, Maryland. Mueller told congressional leaders that the FBI had traced the



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anthrax to Hatfill. Yet the FBI eventually concluded that Hatfill was innocent. This was reminiscent of the FBI's targeting an innocent man as responsible for a bombing episode at the 1996 Atlanta Olympics. That turned out to be wrong as an innocent man's reputation was severely damaged. Mueller was not responsible for that overzealous effort from the FBI. But he was responsible for the agency's dogged pursuit of Hatfill. The FBI wound up settling with Hatfill for almost \$6 million.

Instead of Hatfill, the FBI later re-focused its interest on an Army microbiologist, also at Ft. Detrick: Bruce Ivins. When Ivins was told by his lawyers that he was about to be prosecuted for the anthrax-laced letter murders, he killed himself.

This is illustrative of the larger problem of the office of "independent" counsel. It is the very antithesis of the concept of separation of powers and limited government. There are no "checks and balances" for an independent counsel. The independent counsel's investigation can take any turn he wishes it to take, for as long as he wants to pursue a case, without fear of facing voters in re-election, and with little concern about being fired by someone in the Justice Department.

Writing in *The Hill*, Sidney Powell, a former federal prosecutor herself, questioned the appointment of Mueller. She cited Attorney General Robert Jackson, who said in 1940, "The citizen's safety lies in the prosecutor ... who seeks truth and not victims." Unfortunately, as Jackson recognized, some prosecutors seek victims and not truth. Since the creation of the "special" or "independent" counsels, we have seen the confirmation of Jackson's concern. They seem determined to indict someone — for something — eventually.

Alan Dershowitz, a highly regarded retired Harvard Law professor, and a well-known Democrat, told Fox News that Mueller is "going well beyond his authority as a prosecutor." Dershowitz charges that Mueller is turning constitutional actions by the Trump White House into crimes.

"The president is entitled to fire the head of the FBI," Dershowitz insisted in reference to the uproar over Trump's sacking of FBI Director James Comey, a good friend of Mueller.

Dershowitz warned that prosecutors who cannot find evidence of a crime often pressure others besides the actual target of the investigation. "He's going to play the domino game," Dershowitz predicted. This will be done by indicting someone close to Trump on something that has nothing to do with the investigation itself and then offering a plea deal in exchange for "information" about Trump and Russia. He will get them for "failing to complete a form," or some other trivial thing, Dershowitz explained.

The late Supreme Court Justice Antonin Scalia was the lone dissenter in a case that upheld the constitutionality of the law creating the office of independent counsel back in the 1980s, arguing that it was both unconstitutional and dangerous. He predicted then that these "independent" prosecutors would bring politically motivated cases, threatening the integrity of our political system.

Mueller seems to be the embodiment of Scalia's prescient concern.

Photo of Robert Mueller: AP Images



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