D. Events Leading Up To and Surrounding the Termination of FBI Director Comey

Overview

Comey was scheduled to testify before Congress on May 3, 2017. Leading up to that testimony, the President continued to tell advisors that he wanted Comey to make public that the President was not under investigation. At the hearing, Comey declined to answer questions about the scope or subjects of the Russia investigation and did not state publicly that the President was not under investigation. Two days later, on May 5, 2017, the President told close aides he was going to fire Comey, and on May 9, he did so, using his official termination letter to make public that Comey had on three occasions informed the President that he was not under investigation. The President decided to fire Comey before receiving advice or a recommendation from the Department of Justice, but he approved an initial public account of the termination that attributed it to a recommendation from the Department of Justice based on Comey’s handling of the Clinton email investigation. After Deputy Attorney General Rod Rosenstein resisted attributing the firing to his recommendation, the President acknowledged that he intended to fire Comey regardless of the DOJ recommendation and was thinking of the Russia investigation when he made the decision. The President also told the Russian Foreign Minister, “I just fired the head of the F.B.I. He was crazy, a real nut job. I faced great pressure because of Russia. That’s taken off. . . . I’m not under investigation.”

Evidence

1. Comey Testifies Before the Senate Judiciary Committee and Declines to Answer Questions About Whether the President is Under Investigation

On May 3, 2017, Comey was scheduled to testify at an FBI oversight hearing before the Senate Judiciary Committee. McGahn recalled that in the week leading up to the hearing, the President said that it would be the last straw if Comey did not take the opportunity to set the record straight by publicly announcing that the President was not under investigation. The President had previously told McGahn that the perception that the President was under investigation was hurting his ability to carry out his presidential duties and deal with foreign leaders. At the hearing, Comey declined to answer questions about the status of the Russia investigation, stating “[i]n the Department of Justice ha[d] authorized [him] to confirm that [the Russia investigation] exists,” but that he was “not going to say another word about it” until the investigation was completed. Comey also declined to answer questions about whether investigators had “ruled

383 Hearing on Oversight of the FBI before the Senate Judiciary Committee, 115th Cong. (May 3, 2017).

384 McGahn 12/12/17 302, at 10-11.

385 McGahn 12/12/17 302, at 7, 10-11 (McGahn believed that two foreign leaders had expressed sympathy to the President for being under investigation); SC_AD_00255 (Donaldson 4/11/17 Notes) (“P Called Comey – Day we told him not to? ‘You are not under investigation’ NK/China/Sapping Credibility”).

386 Hearing on FBI Oversight Before the Senate Judiciary Committee, 115th Cong. (CQ Cong. Transcripts, at 70) (May 3, 2017) (testimony by FBI Director James Comey). Comey repeated this point
out anyone in the Trump campaign as potentially a target of th[e] criminal investigation,” including whether the FBI had “ruled out the president of the United States.”

Comey was also asked at the hearing about his decision to announce 11 days before the presidential election that the FBI was reopening the Clinton email investigation. Comey stated that it made him “mildly nauseous to think that we might have had some impact on the election,” but added that “even in hindsight” he “would make the same decision.” He later repeated that he had no regrets about how he had handled the email investigation and believed he had “done the right thing at each turn.”

In the afternoon following Comey’s testimony, the President met with McGahn, Sessions, and Sessions’s Chief of Staff Jody Hunt. At that meeting, the President asked McGahn how Comey had done in his testimony and McGahn relayed that Comey had declined to answer questions about whether the President was under investigation. The President became very upset and directed his anger at Sessions. According to notes written by Hunt, the President said, “This is terrible Jeff. It’s all because you recused. AG is supposed to be most important appointment. Kennedy appointed his brother. Obama appointed Holder. I appointed you and you recused yourself. You left me on an island. I can’t do anything.” The President said that the recusal was unfair and that it was interfering with his ability to govern and undermining his authority with foreign leaders. Sessions responded that he had had no choice but to recuse, and it was a mandatory rather than discretionary decision. Hunt recalled that Sessions also stated at several times during his testimony. See id. at 26 (explaining that he was “not going to say another peep about [the investigation] until we’re done”); id. at 90 (stating that he would not provide any updates about the status of investigation “before the matter is concluded”).


391 Sessions 1/17/18 302, at 8; Hunt 2/1/18 302, at 8.


393 Sessions 1/17/18 302, at 8-9.

394 Hunt-000021 (Hunt 5/3/17 Notes). Hunt said that he wrote down notes describing this meeting and others with the President after the events occurred. Hunt 2/1/17 302, at 2.

395 Hunt-000021-22 (Hunt 5/3/17 Notes) (“I have foreign leaders saying they are sorry I am being investigated.”); Sessions 1/17/18 302, at 8 (Sessions recalled that a Chinese leader had said to the President that he was sorry the President was under investigation, which the President interpreted as undermining his authority); Hunt 2/1/18 302, at 8.

396 Sessions 1/17/18 302, at 8; Hunt-000022 (Hunt 5/3/17 Notes).
some point during the conversation that a new start at the FBI would be appropriate and the President should consider replacing Comey as FBI director. According to Sessions, when the meeting concluded, he was clear that the President was unhappy with Comey, but Sessions did not think the President had made the decision to terminate Comey.

Bannon recalled that the President brought Comey up with him at least eight times on May 3 and May 4, 2017. According to Bannon, the President said the same thing each time: “He told me three times I’m not under investigation. He’s a showboater. He’s a grandstander. I don’t know any Russians. There was no collusion.” Bannon told the President that he could not fire Comey because “the ship had sailed.” Bannon also told the President that firing Comey was not going to stop the investigation, cautioning him that he could fire the FBI director but could not fire the FBI.

2. The President Makes the Decision to Terminate Comey

The weekend following Comey’s May 3, 2017 testimony, the President traveled to his resort in Bedminster, New Jersey. At a dinner on Friday, May 5, attended by the President and various advisors and family members, including Jared Kushner and senior advisor Stephen Miller, the President stated that he wanted to remove Comey and had ideas for a letter that would be used to make the announcement. The President dictated arguments and specific language for the letter, and Miller took notes. As reflected in the notes, the President told Miller that the letter should start, “While I greatly appreciate you informing me that I am not under investigation concerning what I have often stated is a fabricated story on a Trump-Russia relationship – pertaining to the 2016 presidential election, please be informed that I, and I believe the American public – including Democrats and Republicans – have lost faith in you as Director of the FBI.” Following the dinner, Miller prepared a termination letter based on those notes and research he conducted to support the President’s arguments. Over the weekend, the President provided several rounds of

397 Hunt-000022 (Hunt 5/3/17 Notes).
398 Sessions 1/17/18 302, at 9.
399 Bannon 2/12/18 302, at 20.
400 Bannon 2/12/18 302, at 20.
401 Bannon 2/12/18 302, at 20.
402 Bannon 2/12/18 302, at 20-21; see Priebus 10/13/17 302, at 28.
403 S. Miller 10/31/17 302, at 4-5; SCR025_000019 (President’s Daily Diary, 5/4/17).
404 S. Miller 10/31/17 302, at 5.
405 S. Miller 10/31/17 302, at 5-6.
406 S. Miller 5/5/17 Notes, at 1; see S. Miller 10/31/17 302, at 8.
407 S. Miller 10/31/17 302, at 6.
edits on the draft letter. Miller said the President was adamant that he not tell anyone at the White House what they were preparing because the President was worried about leaks.

In his discussions with Miller, the President made clear that he wanted the letter to open with a reference to him not being under investigation. Miller said he believed that fact was important to the President to show that Comey was not being terminated based on any such investigation. According to Miller, the President wanted to establish as a factual matter that Comey had been under a “review period” and did not have assurance from the President that he would be permitted to keep his job.

The final version of the termination letter prepared by Miller and the President began in a way that closely tracked what the President had dictated to Miller at the May 5 dinner: “Dear Director Comey, While I greatly appreciate your informing me, on three separate occasions, that I am not under investigation concerning the fabricated and politically-motivated allegations of a Trump-Russia relationship with respect to the 2016 Presidential Election, please be informed that I, along with members of both political parties and, most importantly, the American Public, have lost faith in you as the Director of the FBI and you are hereby terminated.” The four-page letter went on to critique Comey’s judgment and conduct, including his May 3 testimony before the Senate Judiciary Committee, his handling of the Clinton email investigation, and his failure to hold leakers accountable. The letter stated that Comey had “asked [the President] at dinner shortly after inauguration to let [Comey] stay on in the Director’s role, and [the President] said that [he] would consider it,” but the President had “concluded that [he] had no alternative but to find new leadership for the Bureau – a leader that restores confidence and trust.”

In the morning of Monday, May 8, 2017, the President met in the Oval Office with senior advisors, including McGahn, Priebus, and Miller, and informed them he had decided to terminate Comey. The President read aloud the first paragraphs of the termination letter he wrote with

408 S. Miller 10/31/17 302, at 6-8.
409 S. Miller 10/31/17 302, at 7. Miller said he did not want Priebus to be blindsided, so on Sunday night he called Priebus to tell him that the President had been thinking about the “Comey situation” and there would be an important discussion on Monday. S. Miller 10/31/17 302, at 7.
410 S. Miller 10/31/17 302, at 8.
411 S. Miller 10/31/17 302, at 8.
412 S. Miller 10/31/17 302, at 10.
413 SCR013c_000003-06 (Draft Termination Letter to FBI Director Comey).
414 SCR013c_000003-06 (Draft Termination Letter to FBI Director Comey). Kushner said that the termination letter reflected the reasons the President wanted to fire Comey and was the truest representation of what the President had said during the May 5 dinner. Kushner 4/11/18 302, at 25.
415 SCR013c_000003 (Draft Termination Letter to FBI Director Comey).
Miller and conveyed that the decision had been made and was not up for discussion.\textsuperscript{417} The President told the group that Miller had researched the issue and determined the President had the authority to terminate Comey without cause.\textsuperscript{418} In an effort to slow down the decision-making process, McGahn told the President that DOJ leadership was currently discussing Comey's status and suggested that White House Counsel's Office attorneys should talk with Sessions and Rod Rosenstein, who had recently been confirmed as the Deputy Attorney General.\textsuperscript{419} McGahn said that previously scheduled meetings with Sessions and Rosenstein that day would be an opportunity to find out what they thought about firing Comey.\textsuperscript{420}

At noon, Sessions, Rosenstein, and Hunt met with McGahn and White House Counsel's Office attorney Uttam Dhillon at the White House.\textsuperscript{421} McGahn said that the President had decided to fire Comey and asked for Sessions's and Rosenstein's views.\textsuperscript{422} Sessions and Rosenstein criticized Comey and did not raise concerns about replacing him.\textsuperscript{423} McGahn and Dhillon said the fact that neither Sessions nor Rosenstein objected to replacing Comey gave them peace of mind that the President's decision to fire Comey was not an attempt to obstruct justice.\textsuperscript{424} An Oval Office meeting was scheduled later that day so that Sessions and Rosenstein could discuss the issue with the President.\textsuperscript{425}

At around 5 p.m., the President and several White House officials met with Sessions and Rosenstein to discuss Comey.\textsuperscript{426} The President told the group that he had watched Comey's May

\textsuperscript{417} S. Miller 10/31/17 302, at 11 (observing that the President started the meeting by saying, "I'm going to read you a letter. Don't talk me out of this. I've made my decision."); Dhillon 11/21/17 302, at 6 (the President announced in an irreversible way that he was firing Comey); Eisenberg 11/29/17 302, at 13 (the President did not leave whether or not to fire Comey up for discussion); Priebus 10/13/17 302, at 25; McGahn 12/12/17 302, at 11-12.

\textsuperscript{418} Dhillon 302 11/21/17, at 6; Eisenberg 11/29/17 302, at 13; McGahn 12/12/17 302, at 11.

\textsuperscript{419} McGahn 12/12/17 302, at 12, 13; S. Miller 10/31/17 302, at 11; Dhillon 11/21/17 302, at 7. Because of the Attorney General's recusal, Rosenstein became the Acting Attorney General for the Russia investigation upon his confirmation as Deputy Attorney General. See 28 U.S.C. § 508(a) ("In case of a vacancy in the office of Attorney General, or of his absence or disability, the Deputy Attorney General may exercise all the duties of that office").

\textsuperscript{420} McGahn 12/12/17 302, at 12.

\textsuperscript{421} Dhillon 11/21/17 302, at 7; McGahn 12/12/17 302, at 13; Gauhar-000056 (Gauhar 5/16/17 Notes); see Gauhar-000056-72 (2/11/19 Memorandum to File attaching Gauhar handwritten notes) ("Ms. Gauhar determined that she likely recorded all these notes during one or more meetings on Tuesday, May 16, 2017.").

\textsuperscript{422} McGahn 12/12/17 302, at 13; see Gauhar-000056 (Gauhar 5/16/17 Notes).

\textsuperscript{423} Dhillon 11/21/17 302, at 7-9; Sessions 1/17/18 302, at 9; McGahn 12/12/17 302, at 13.

\textsuperscript{424} McGahn 12/12/17 302, at 13; Dhillon 11/21/17 302, at 9.

\textsuperscript{425} Hunt-000026 (Hunt 5/8/17 Notes); see Gauhar-000057 (Gauhar 5/16/17 Notes).

\textsuperscript{426} Rosenstein 5/23/17 302, at 2; McGahn 12/12/17 302, at 14; see Gauhar-000057 (Gauhar 5/16/17 Notes).
3 testimony over the weekend and thought that something was “not right” with Comey.\textsuperscript{427} The President said that Comey should be removed and asked Sessions and Rosenstein for their views.\textsuperscript{428} Hunt, who was in the room, recalled that Sessions responded that he had previously recommended that Comey be replaced.\textsuperscript{429} McGahn and Dhillon said Rosenstein described his concerns about Comey’s handling of the Clinton email investigation.\textsuperscript{430}

The President then distributed copies of the termination letter he had drafted with Miller, and the discussion turned to the mechanics of how to fire Comey and whether the President’s letter should be used.\textsuperscript{431} McGahn and Dhillon urged the President to permit Comey to resign, but the President was adamant that he be fired.\textsuperscript{432} The group discussed the possibility that Rosenstein and Sessions could provide a recommendation in writing that Comey should be removed.\textsuperscript{433} The President agreed and told Rosenstein to draft a memorandum, but said he wanted to receive it first thing the next morning.\textsuperscript{434} Hunt’s notes reflect that the President told Rosenstein to include in his recommendation the fact that Comey had refused to confirm that the President was not personally under investigation.\textsuperscript{435} According to notes taken by a senior DOJ official of Rosenstein’s description of his meeting with the President, the President said, “Put the Russia stuff in the memo.”\textsuperscript{436} Rosenstein responded that the Russia investigation was not the basis of his recommendation, so he did not think Russia should be mentioned.\textsuperscript{437} The President told Rosenstein he would appreciate it if Rosenstein put it in his letter anyway.\textsuperscript{438} When Rosenstein

\textsuperscript{427} Hunt-000026-27 (Hunt 5/8/17 Notes).
\textsuperscript{428} Sessions 1/17/18 302, at 10; see Gauhar-000058 (Gauhar 5/16/17 Notes) (“POTUS to AG: What is your rec?”).
\textsuperscript{429} Hunt-000027 (Hunt 5/8/17 Notes).
\textsuperscript{430} McGahn 12/12/17 302, at 14; Dhillon 11/21/17 302, at 7.
\textsuperscript{431} Hunt-000028 (Hunt 5/8/17 Notes).
\textsuperscript{432} McGahn 12/12/17 302, at 13.
\textsuperscript{433} Hunt-000028-29 (Hunt 5/8/17 Notes).
\textsuperscript{434} McCabe 9/26/17 302, at 13; Rosenstein 5/23/17 302, at 2; see Gauhar-000059 (Gauhar 5/16/17 Notes) (“POTUS tells DAG to write a memo”).
\textsuperscript{435} Hunt-000028-29 (Hunt 5/8/17 Notes) (“POTUS asked if Rod’s recommendation would include the fact that although Comey talks about the investigation he refuses to say that the President is not under investigation. . . . So it would be good if your recommendation would make mention of the fact that Comey refuses to say public[ly] what he said privately 3 times.”).
\textsuperscript{436} Gauhar-000059 (Gauhar 5/16/17 Notes).
\textsuperscript{437} Sessions 1/17/18 302 at 10; McCabe 9/26/17 302, at 13; see Gauhar-000059 (Gauhar 5/16/17 Notes).
\textsuperscript{438} Gauhar-000059 (Gauhar 5/16/17 Notes); McCabe 5/16/17 Memorandum 1; McCabe 9/26/17 302, at 13.
left the meeting, he knew that Comey would be terminated, and he told DOJ colleagues that his own reasons for replacing Comey were “not [the President’s] reasons.”

On May 9, Hunt delivered to the White House a letter from Sessions recommending Comey’s removal and a memorandum from Rosenstein, addressed to the Attorney General, titled “Restoring Public Confidence in the FBI.” McGahn recalled that the President liked the DOJ letters and agreed that they should provide the foundation for a new cover letter from the President accepting the recommendation to terminate Comey. Notes taken by Donaldson on May 9 reflected the view of the White House Counsel’s Office that the President’s original termination letter should “[n]ot [see the] light of day” and that it would be better to offer “[n]o other rationales” for the firing than what was in Rosensteins’s and Sessions’s memoranda. The President asked Miller to draft a new termination letter and directed Miller to say in the letter that Comey had informed the President three times that he was not under investigation. McGahn, Priebus, and Dhillon objected to including that language, but the President insisted that it be included. McGahn, Priebus, and others perceived that language to be the most important part of the letter to

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439 Rosenstein 5/23/17 302, at 2; Gauhar-000059 (Gauhar 5/16/17 Notes) (“DAG reasons not their reasons [POTUS]”); Gauhar-000060 (Gauhar 5/16/17 Notes) (“1st draft had a recommendation. Took it out h/c knew decision had already been made.”).

440 Rosenstein 5/23/17 302, at 4; McGahn 12/12/17 302, at 15; 5/9/17 Letter, Sessions to President Trump (“Based on my evaluation, and for the reasons expressed by the Deputy Attorney General in the attached memorandum, I have concluded that a fresh start is needed at the leadership of the FBI.”); 5/9/17 Memorandum, Rosenstein to Sessions (concluding with, “The way the Director handled the conclusion of the email investigation was wrong. As a result, the FBI is unlikely to regain public and congressional trust until it has a Director who understands the gravity of the mistakes and pledges never to repeat them. Having refused to admit his errors, the Director cannot be expected to implement the necessary corrective actions.”).

441 S. Miller 10/31/17 302, at 12; McGahn 12/12/17 302, at 15; Hunt-000031 (Hunt 5/9/17 Notes).

442 SC_AD_00342 (Donaldson 5/9/17 Notes). Donaldson also wrote “[i]s this the beginning of the end?” because she was worried that the decision to terminate Comey and the manner in which it was carried out would be the end of the presidency. Donaldson 11/6/17 302, at 25.

443 S. Miller 10/31/17 302, at 12; McGahn 12/12/17 302, at 15; Hunt-000032 (Hunt 5/9/17 Notes).

444 McGahn 12/12/17 302, at 15; S. Miller 10/31/17 302, at 12; Dhillon 11/21/17 302, at 8, 10; Priebus 10/13/17 302, at 27; Hunt 2/1/18 302, at 14-15; Hunt-000032 (Hunt 5/9/17 Notes).
the President. Dhillon made a final pitch to the President that Comey should be permitted to resign, but the President refused.

Around the time the President’s letter was finalized, Priebus summoned Spicer and the press team to the Oval Office, where they were told that Comey had been terminated for the reasons stated in the letters by Rosenstein and Sessions. To announce Comey’s termination, the White House released a statement, which Priebus thought had been dictated by the President. In full, the statement read: “Today, President Donald J. Trump informed FBI Director James Comey that he has been terminated and removed from office. President Trump acted based on the clear recommendations of both Deputy Attorney General Rod Rosenstein and Attorney General Jeff Sessions.”

That evening, FBI Deputy Director Andrew McCabe was summoned to meet with the President at the White House. The President told McCabe that he had fired Comey because of the decisions Comey had made in the Clinton email investigation and for many other reasons. The President asked McCabe if he was aware that Comey had told the President three times that he was not under investigation. The President also asked McCabe whether many people in the FBI disliked Comey and whether McCabe was part of the “resistance” that had disagreed with Comey’s decisions in the Clinton investigation. McCabe told the President that he knew Comey had told the President he was not under investigation, that most people in the FBI felt positively about Comey, and that McCabe worked “very closely” with Comey and was part of all the decisions that had been made in the Clinton investigation.

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445 Dhillon 1/21/17 302, at 10; Eisenberg 11/29/17 302, at 15 (providing the view that the President’s desire to include the language about not being under investigation was the “driving animus of the whole thing”); Burnham 11/3/17 302, at 16 (Burnham knew the only line the President cared about was the line that said Comey advised the President on three separate occasions that the President was not under investigation). According to Hunt’s notes, the reference to Comey’s statement would indicate that “notwithstanding” Comey’s having informed the President that he was not under investigation, the President was terminating Comey. Hunt-000032 (Hunt 5/9/17 Notes). McGahn said he believed the President wanted the language included so that people would not think that the President had terminated Comey because the President was under investigation. McGahn 12/12/17 302, at 15.


447 Spicer 10/16/17 302, at 9; McGahn 12/12/17 302, at 16.

448 Priebus 10/13/17 302, at 28.

449 Statement of the Press Secretary, The White House, Office of the Press Secretary (May 9, 2017).

450 McCabe 9/26/17 302, at 4; SCR025_000044 (President’s Daily Diary, 5/9/17); McCabe 5/10/17 Memorandum, at 1.

451 McCabe 9/26/17 302, at 5; McCabe 5/10/17 Memorandum, at 1.

452 McCabe 9/26/17 302, at 5; McCabe 5/10/17 Memorandum, at 1-2.

453 McCabe 9/26/17 302, at 5; McCabe 5/10/17 Memorandum, at 1-2.

454 McCabe 9/26/17 302, at 5; McCabe 5/10/17 Memorandum, at 1-2.
Later that evening, the President told his communications team he was unhappy with the press coverage of Comey’s termination and ordered them to go out and defend him. The President also called Chris Christie and, according to Christie, said he was getting “killed” in the press over Comey’s termination. The President asked what he should do. Christie asked, “Did you fire [Comey] because of what Rod wrote in the memo?” and the President responded, “Yes.” Christie said that the President should “get Rod out there” and have him defend the decision. The President told Christie that this was a “good idea” and said he was going to call Rosenstein right away.

That night, the White House Press Office called the Department of Justice and said the White House wanted to put out a statement saying that it was Rosenstein’s idea to fire Comey. Rosenstein told other DOJ officials that he would not participate in putting out a “false story.” The President then called Rosenstein directly and said he was watching Fox News, that the coverage had been great, and that he wanted Rosenstein to do a press conference. Rosenstein responded that this was not a good idea because if the press asked him, he would tell the truth that Comey’s firing was not his idea. Sessions also informed the White House Counsel’s Office that evening that Rosenstein was upset that his memorandum was being portrayed as the reason for Comey’s termination.

In an unplanned press conference late in the evening of May 9, 2017, Spicer told reporters, “It was all [Rosenstein]. No one from the White House. It was a DOJ decision.” That evening and the next morning, White House officials and spokespersons continued to maintain that the

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455 Spicer 10/16/17 302, at 11; Hicks 12/8/17, at 18; Sanders 7/3/18 302, at 2.
456 Christie 2/13/19 302, at 6.
457 Christie 2/13/19 302, at 6.
458 Christie 2/13/19 302, at 6.
459 Christie 2/13/19 302, at 6.
460 Christie 2/13/19 302, at 6.
461 Gauhar-000071 (Gauhar 5/16/17 Notes); Page Memorandum, at 3 (recording events of 5/16/17); McCabe 9/26/17 302, at 14.
462 Rosenstein 5/23/17 302, at 4-5; Gauhar-000059 (Gauhar 5/16/17 Notes).
463 Rosenstein 5/23/17 302, at 4-5, Gauhar-000071 (Gauhar 5/16/17 Notes).
464 Gauhar-000071 (Gauhar 5/16/17 Notes). DOJ notes from the week of Comey’s firing indicate that Priebus was “screaming” at the DOJ public affairs office trying to get Rosenstein to do a press conference, and the DOJ public affairs office told Priebus that Rosenstein had told the President he was not doing it. Gauhar-000071-72 (Gauhar 5/16/17 Notes).
President’s decision to terminate Comey was driven by the recommendations the President received from Rosenstein and Sessions.467

In the morning on May 10, 2017, President Trump met with Russian Foreign Minister Sergey Lavrov and Russian Ambassador Sergey Kislyak in the Oval Office.468 The media subsequently reported that during the May 10 meeting the President brought up his decision the prior day to terminate Comey, telling Lavrov and Kislyak: “I just fired the head of the F.B.I. He was crazy, a real nut job. I faced great pressure because of Russia. That’s taken off. . . . I’m not under investigation.”469 The President never denied making those statements, and the White House did not dispute the account, instead issuing a statement that said: “By grandstanding and politicizing the investigation into Russia’s actions, James Comey created unnecessary pressure on our ability to engage and negotiate with Russia. The investigation would have always continued, and obviously, the termination of Comey would not have ended it. Once again, the real story is that our national security has been undermined by the leaking of private and highly classified information.”470 Hicks said that when she told the President about the reports on his meeting with Lavrov, he did not look concerned and said of Comey, “he is crazy.”471 When McGahn asked the President about his comments to Lavrov, the President said it was good that Comey was fired because that took the pressure off by making it clear that he was not under investigation so he could get more work done.472

That same morning, on May 10, 2017, the President called McCabe.473 According to a memorandum McCabe wrote following the call, the President asked McCabe to come over to the White House to discuss whether the President should visit FBI headquarters and make a speech to

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467 See, e.g., Sarah Sanders, White House Daily Briefing, C-SPAN (May 10, 2017); SCR013_001088 (5/10/17 Email, Hemming to Cheung et al.) (internal White House email describing comments on the Comey termination by Vice President Pence).

468 SCR08_00353 (5/9/17 White House Document, “Working Visit with Foreign Minister Sergey Lavrov of Russia”); SCR08_001274 (5/10/17 Email, Ciaramella to Kelly et al.). The meeting had been planned on May 2, 2017, during a telephone call between the President and Russian President Vladimir Putin, and the meeting date was confirmed on May 5, 2017, the same day the President dictated ideas for the Comey termination letter to Stephen Miller. SCR08_001274 (5/10/17 Email, Ciaramella to Kelly et al.).


470 SCR08_002117 (5/19/17 Email, Walters to Farhi (CBS News)); see Spicer 10/16/17 302, at 13 (noting he would have been told to “clean it up” if the reporting on the meeting with the Russian Foreign Minister was inaccurate, but he was never told to correct the reporting); Hicks 12/8/17 302, at 19 (recalling that the President never denied making the statements attributed to him in the Lavrov meeting and that the President had said similar things about Comey in an off-the-record meeting with reporters on May 18, 2017, calling Comey a “nut job” and “crazy”).

471 Hicks 12/8/17 302, at 19.

472 McGahn 12/12/17 302, at 18.

473 SCR025_000046 (President’s Daily Diary, 5/10/17); McCabe 5/10/17 Memorandum, at 1.
employees. The President said he had received "hundreds" of messages from FBI employees indicating their support for terminating Comey. The President also told McCabe that Comey should not have been permitted to travel back to Washington, D.C. on the FBI's airplane after he had been terminated and that he did not want Comey "in the building again," even to collect his belongings. When McCabe met with the President that afternoon, the President, without prompting, told McCabe that people in the FBI loved the President, estimated that at least 80% of the FBI had voted for him, and asked McCabe who he had voted for in the 2016 presidential election.

In the afternoon of May 10, 2017, deputy press secretary Sarah Sanders spoke to the President about his decision to fire Comey and then spoke to reporters in a televised press conference. Sanders told reporters that the President, the Department of Justice, and bipartisan members of Congress had lost confidence in Comey, "[a]nd most importantly, the rank and file of the FBI had lost confidence in their director. Accordingly, the President accepted the recommendation of his Deputy Attorney General to remove James Comey from his position." In response to questions from reporters, Sanders said that Rosenstein decided "on his own" to review Comey's performance and that Rosenstein decided "on his own" to come to the President on Monday, May 8 to express his concerns about Comey. When a reporter indicated that the "vast majority" of FBI agents supported Comey, Sanders said, "Look, we've heard from countless members of the FBI that say very different things." Following the press conference, Sanders spoke to the President, who told her she did a good job and did not point out any inaccuracies in her comments. Sanders told this Office that her reference to hearing from "countless members of the FBI" was a "slip of the tongue." She also recalled that her statement in a separate press interview that rank-and-file FBI agents had lost confidence in Comey was a comment she made "in the heat of the moment" that was not founded on anything.

Also on May 10, 2017, Sessions and Rosenstein each spoke to McGahn and expressed concern that the White House was creating a narrative that Rosenstein had initiated the decision to

474 McCabe 5/10/17 Memorandum, at 1.
475 McCabe 5/10/17 Memorandum, at 1.
476 McCabe 5/10/17 Memorandum, at 1; Rybicki 6/13/17 302, at 2. Comey had been visiting the FBI's Los Angeles office when he found out he had been terminated. Comey 11/15/17 302, at 22.
477 McCabe 5/10/17 Memorandum, at 1-2. McCabe's memorandum documenting his meeting with the President is consistent with notes taken by the White House Counsel's Office. See SC AD 00347 (Donaldson 5/10/17 Notes).
479 Sarah Sanders, White House Daily Briefing, C-SPAN (May 10, 2017); Sanders 7/3/18 302, at 4.
481 Sanders 7/3/18 302, at 4.
482 Sanders 7/3/18 302, at 4.
483 Sanders 7/3/18 302, at 3.

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fire Comey.\textsuperscript{484} The White House Counsel’s Office agreed that it was factually wrong to say that the Department of Justice had initiated Comey’s termination,\textsuperscript{485} and McGahn asked attorneys in the White House Counsel’s Office to work with the press office to correct the narrative.\textsuperscript{486}

The next day, on May 11, 2017, the President participated in an interview with Lester Holt. The President told White House Counsel’s Office attorneys in advance of the interview that the communications team could not get the story right, so he was going on Lester Holt to say what really happened.\textsuperscript{487} During the interview, the President stated that he had made the decision to fire Comey before the President met with Rosenstein and Sessions. The President told Holt, “I was going to fire regardless of recommendation . . . . [Rosenstein] made a recommendation. But regardless of recommendation, I was going to fire Comey knowing there was no good time to do it.”\textsuperscript{488} The President continued, “And in fact, when I decided to just do it, I said to myself—I said, you know, this Russia thing with Trump and Russia is a made-up story. It’s an excuse by the Democrats for having lost an election that they should’ve won.”\textsuperscript{489}

In response to a question about whether he was angry with Comey about the Russia investigation, the President said, “As far as I’m concerned, I want that thing to be absolutely done properly.”\textsuperscript{490} The President added that he realized his termination of Comey “probably maybe will confuse people” with the result that it “might even lengthen out the investigation,” but he “had to do the right thing for the American people” and Comey was “the wrong man for that position.”\textsuperscript{491} The President described Comey as “a showboat” and “a grandstander,” said that “[t]he FBI has been in turmoil,” and said he wanted “to have a really competent, capable director.”\textsuperscript{492} The President affirmed that he expected the new FBI director to continue the Russia investigation.\textsuperscript{493}

On the evening of May 11, 2017, following the Lester Holt interview, the President tweeted, “Russia must be laughing up their sleeves watching as the U.S. tears itself apart over a Democrat EXCUSE for losing the election.”\textsuperscript{494} The same day, the media reported that the President had demanded that Comey pledge his loyalty to the President in a private dinner shortly

\textsuperscript{484} McGahn 12/12/17 302, at 16-17; Donaldson 11/6/17 302, at 26; see Dhillon 11/21/17 302, at 11.

\textsuperscript{485} Donaldson 11/6/17 302, at 27.

\textsuperscript{486} McGahn 12/12/17 302, at 17.

\textsuperscript{487} Dhillon 11/21/17 302, at 11.

\textsuperscript{488} Interview with President Donald Trump, NBC (May 11, 2017) Transcript, at 2.

\textsuperscript{489} Interview with President Donald Trump, NBC (May 11, 2017) Transcript, at 2.

\textsuperscript{490} Interview with President Donald Trump, NBC (May 11, 2017) Transcript, at 3.

\textsuperscript{491} Interview with President Donald Trump, NBC (May 11, 2017) Transcript, at 3.

\textsuperscript{492} Interview with President Donald Trump, NBC (May 11, 2017) Transcript, at 1, 5.

\textsuperscript{493} Interview with President Donald Trump, NBC (May 11, 2017) Transcript, at 7.

\textsuperscript{494} @realDonaldTrump 5/11/17 (4:34 p.m. ET) Tweet.
after being sworn in. Late in the morning of May 12, 2017, the President tweeted, “Again, the story that there was collusion between the Russians & Trump campaign was fabricated by Dems as an excuse for losing the election.” The President also tweeted, “James Comey better hope that there are no ‘tapes’ of our conversations before he starts leaking to the press!” and “When James Clapper himself, and virtually everyone else with knowledge of the witch hunt, says there is no collusion, when does it end?”

**Analysis**

In analyzing the President’s decision to fire Comey, the following evidence is relevant to the elements of obstruction of justice:

- **Obstructive act.** The act of firing Comey removed the individual overseeing the FBI’s Russia investigation. The President knew that Comey was personally involved in the investigation based on Comey’s briefing of the Gang of Eight, Comey’s March 20, 2017 public testimony about the investigation, and the President’s one-on-one conversations with Comey.

  Firing Comey would qualify as an obstructive act if it had the natural and probable effect of interfering with or impeding the investigation—for example, if the termination would have the effect of delaying or disrupting the investigation or providing the President with the opportunity to appoint a director who would take a different approach to the investigation that the President perceived as more protective of his personal interests. Relevant circumstances bearing on that issue include whether the President’s actions had the potential to discourage a successor director or other law enforcement officials in their conduct of the Russia investigation. The President fired Comey abruptly without offering him an opportunity to resign, banned him from the FBI building, and criticized him publicly, calling him a “showboat” and claiming that the FBI was “in turmoil” under his leadership. And the President followed the termination with public statements that were highly critical of the investigation; for example, three days after firing Comey, the President referred to the investigation as a “witch hunt” and asked, “when does it end?” Those actions had the potential to affect a successor director’s conduct of the investigation.

  The anticipated effect of removing the FBI director, however, would not necessarily be to prevent or impede the FBI from continuing its investigation. As a general matter, FBI investigations run under the operational direction of FBI personnel levels below the FBI director. Bannon made a similar point when he told the President that he could fire the FBI director, but could not fire the FBI. The White House issued a press statement the day after Comey was fired that said, “The investigation would have always continued, and obviously, the termination of Comey would not have ended it.” In addition, in his May 11 interview with Lester Holt, the President stated that he understood when he made the decision to fire Comey that the action might prolong the investigation. And the President chose McCabe to serve as interim director, even

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496 @realDonaldTrump 5/12/17 (7:51 a.m. ET) Tweet.

497 @realDonaldTrump 5/12/17 (8:26 a.m. ET) Tweet; @realDonaldTrump 5/12/17 (8:54 a.m. ET) Tweet.
though McCabe told the President he had worked “very closely” with Comey and was part of all the decisions made in the Clinton investigation.

b. **Nexus to a proceeding.** The nexus element would be satisfied by evidence showing that a grand jury proceeding or criminal prosecution arising from an FBI investigation was objectively foreseeable and actually contemplated by the President when he terminated Comey.

Several facts would be relevant to such a showing. At the time the President fired Comey, a grand jury had not begun to hear evidence related to the Russia investigation and no grand jury subpoenas had been issued. On March 20, 2017, however, Comey had announced that the FBI was investigating Russia’s interference in the election, including “an assessment of whether any crimes were committed.” It was widely known that the FBI, as part of the Russia investigation, was investigating the hacking of the DNC’s computers—a clear criminal offense.

In addition, at the time the President fired Comey, evidence indicates the President knew that Flynn was still under criminal investigation and could potentially be prosecuted, despite the President’s February 14, 2017 request that Comey “let[] Flynn go.” On March 5, 2017, the White House Counsel’s Office was informed that the FBI was asking for transition-period records relating to Flynn—indicating that the FBI was still actively investigating him. The same day, the President told advisors he wanted to call Dana Boente, then the Acting Attorney General for the Russia investigation, to find out whether the White House or the President was being investigated. On March 31, 2017, the President signaled his awareness that Flynn remained in legal jeopardy by tweeting that “Mike Flynn should ask for immunity” before he agreed to provide testimony to the FBI or Congress. And in late March or early April, the President asked McFarland to pass a message to Flynn telling him that the President felt bad for him and that he should stay strong, further demonstrating the President’s awareness of Flynn’s criminal exposure.

c. **Intent.** Substantial evidence indicates that the catalyst for the President’s decision to fire Comey was Comey’s unwillingness to publicly state that the President was not personally under investigation, despite the President’s repeated requests that Comey make such an announcement. In the week leading up to Comey’s May 3, 2017 Senate Judiciary Committee testimony, the President told McGahn that it would be the last straw if Comey did not set the record straight and publicly announce that the President was not under investigation. But during his May 3 testimony, Comey refused to answer questions about whether the President was being investigated. Comey’s refusal angered the President, who criticized Sessions for leaving him isolated and exposed, saying “You left me on an island.” Two days later, the President told advisors he had decided to fire Comey and dictated a letter to Stephen Miller that began with a reference to the fact that the President was not being investigated: “While I greatly appreciate you informing me that I am not under investigation concerning what I have often stated is a fabricated story on a Trump-Russia relationship . . . .” The President later asked Rosenstein to include “Russia” in his memorandum and to say that Comey had told the President that he was not under investigation. And the President’s final termination letter included a sentence, at the President’s insistence and against McGahn’s advice, stating that Comey had told the President on three separate occasions that he was not under investigation.

The President’s other stated rationales for why he fired Comey are not similarly supported by the evidence. The termination letter the President and Stephen Miller prepared in Bedminster
cited Comey’s handling of the Clinton email investigation, and the President told McCabe he fired Comey for that reason. But the facts surrounding Comey’s handling of the Clinton email investigation were well known to the President at the time he assumed office, and the President had made it clear to both Comey and the President’s senior staff in early 2017 that he wanted Comey to stay on as director. And Rosenstein articulated his criticism of Comey’s handling of the Clinton investigation after the President had already decided to fire Comey. The President’s draft termination letter also stated that morale in the FBI was at an all-time low and Sanders told the press after Comey’s termination that the White House had heard from “countless” FBI agents who had lost confidence in Comey. But the evidence does not support those claims. The President told Comey at their January 27 dinner that “the people of the FBI really like [him],” no evidence suggests that the President heard otherwise before deciding to terminate Comey, and Sanders acknowledged to investigators that her comments were not founded on anything.

We also considered why it was important to the President that Comey announce publicly that he was not under investigation. Some evidence indicates that the President believed that the erroneous perception he was under investigation harmed his ability to manage domestic and foreign affairs, particularly in dealings with Russia. The President told Comey that the “cloud” of “this Russia business” was making it difficult to run the country. The President told Sessions and McGahn that foreign leaders had expressed sympathy to him for being under investigation and that the perception he was under investigation was hurting his ability to address foreign relations issues. The President complained to Rogers that “the thing with the Russians [was] messing up” his ability to get things done with Russia, and told Coats, “I can’t do anything with Russia, there’s things I’d like to do with Russia, with trade, with ISIS, they’re all over me with this.” The President also may have viewed Comey as insubordinate for his failure to make clear in the May 3 testimony that the President was no longer under investigation.

Other evidence, however, indicates that the President wanted to protect himself from an investigation into his campaign. The day after learning about the FBI’s interview of Flynn, the President had a one-on-one dinner with Comey, against the advice of senior aides, and told Comey he needed Comey’s “loyalty.” When the President later asked Comey for a second time to make public that he was not under investigation, he brought up loyalty again, saying “Because I have been very loyal to you, very loyal, we had that thing, you know.” After the President learned of Sessions’s recusal from the Russia investigation, the President was furious and said he wanted an Attorney General who would protect him the way he perceived Robert Kennedy and Eric Holder to have protected their presidents. The President also said he wanted to be able to tell his Attorney General “who to investigate.”

In addition, the President had a motive to put the FBI’s Russia investigation behind him. The evidence does not establish that the termination of Comey was designed to cover up a conspiracy between the Trump Campaign and Russia: As described in Volume I, the evidence uncovered in the investigation did not establish that the President or those close to him were involved in the charged Russian computer-hacking or active-measure conspiracies, or that the President otherwise had an unlawful relationship with any Russian official. But the evidence does indicate that a thorough FBI investigation would uncover facts about the campaign and the President personally that the President could have understood to be crimes or that would give rise to personal and political concerns. Although the President publicly stated during and after the election that he had no connection to Russia, the Trump Organization, through Michael Cohen,
was pursuing the proposed Trump Tower Moscow project through June 2016 and candidate Trump was repeatedly briefed on the progress of those efforts.\textsuperscript{498} In addition, some witnesses said that Trump was aware that [Harm to Ongoing Matter] at a time when public reports stated that Russian intelligence officials were behind the hacks, and that Trump privately sought information about future WikiLeaks releases.\textsuperscript{499} More broadly, multiple witnesses described the President’s preoccupation with press coverage of the Russia investigation and his persistent concern that it raised questions about the legitimacy of his election.\textsuperscript{500}

Finally, the President and White House aides initially advanced a pretextual reason to the press and the public for Comey’s termination. In the immediate aftermath of the firing, the President dictated a press statement suggesting that he had acted based on the DOJ recommendations, and White House press officials repeated that story. But the President had decided to fire Comey before the White House solicited those recommendations. Although the President ultimately acknowledged that he was going to fire Comey regardless of the Department of Justice’s recommendations, he did so only after DOJ officials made clear to him that they would resist the White House’s suggestion that they had prompted the process that led to Comey’s termination. The initial reliance on a pretextual justification could support an inference that the President had concerns about providing the real reason for the firing, although the evidence does not resolve whether those concerns were personal, political, or both.

E. The President’s Efforts to Remove the Special Counsel

Overview

The Acting Attorney General appointed a Special Counsel on May 17, 2017, prompting the President to state that it was the end of his presidency and that Attorney General Sessions had failed to protect him and should resign. Sessions submitted his resignation, which the President ultimately did not accept. The President told senior advisors that the Special Counsel had conflicts of interest, but they responded that those claims were “ridiculous” and posed no obstacle to the Special Counsel’s service. Department of Justice ethics officials similarly cleared the Special Counsel’s service. On June 14, 2017, the press reported that the President was being personally investigated for obstruction of justice and the President responded with a series of tweets.

\textsuperscript{498} See Volume II, Section II.K.1, infra.

\textsuperscript{499} See Volume I, Section III.D.1, supra.

\textsuperscript{500} In addition to whether the President had a motive related to Russia-related matters that an FBI investigation could uncover, we considered whether the President’s intent in firing Comey was connected to other conduct that could come to light as a result of the FBI’s Russian-interference investigation. In particular, Michael Cohen was a potential subject of investigation because of his pursuit of the Trump Tower Moscow project and involvement in other activities. And facts uncovered in the Russia investigation, which our Office referred to the U.S. Attorney’s Office for the Southern District of New York, ultimately led to the conviction of Cohen in the Southern District of New York for campaign-finance offenses related to payments he said he made at the direction of the President. See Volume II, Section II.K.5, infra. The investigation, however, did not establish that when the President fired Comey, he was considering the possibility that the FBI’s investigation would uncover these payments or that the President’s intent in firing Comey was otherwise connected to a concern about these matters coming to light.