B. The President’s Conduct Concerning the Investigation of Michael Flynn

Overview

During the presidential transition, incoming National Security Advisor Michael Flynn had two phone calls with the Russian Ambassador to the United States about the Russian response to U.S. sanctions imposed because of Russia’s election interference. After the press reported on Flynn’s contacts with the Russian Ambassador, Flynn lied to incoming Administration officials by saying he had not discussed sanctions on the calls. The officials publicly repeated those lies in press interviews. The FBI, which previously was investigating Flynn for other matters, interviewed him about the calls in the first week after the inauguration, and Flynn told similar lies to the FBI. On January 26, 2017, Department of Justice (DOJ) officials notified the White House that Flynn and the Russian Ambassador had discussed sanctions and that Flynn had been interviewed by the FBI. The next night, the President had a private dinner with FBI Director James Comey in which he asked for Comey’s loyalty. On February 13, 2017, the President asked Flynn to resign. The following day, the President had a one-on-one conversation with Comey in which he said, “I hope you can see your way clear to letting this go, to letting Flynn go.”

Evidence

1. Incoming National Security Advisor Flynn Discusses Sanctions on Russia with Russian Ambassador Sergey Kislyak

Shortly after the election, President-Elect Trump announced he would appoint Michael Flynn as his National Security Advisor. For the next two months, Flynn played an active role on the Presidential Transition Team (PTT) coordinating policy positions and communicating with foreign government officials, including Russian Ambassador to the United States Sergey Kislyak.

On December 29, 2016, as noted in Volume II, Section II.A.4, supra, the Obama Administration announced that it was imposing sanctions and other measures on several Russian individuals and entities. That day, multiple members of the PTT exchanged emails about the sanctions and the impact they would have on the incoming Administration, and Flynn informed members of the PTT that he would be speaking to the Russian Ambassador later in the day.

---


79 Flynn 11/16/17 302, at 8-14; Priebus 10/13/17 302, at 3-5.

80 Statement by the President on Actions in Response to Russian Malicious Cyber Activity and Harassment, The White House, Office of the Press Secretary (Dec. 29, 2016).

81 12/29/16 Email, O’Brien to McFarland et al.; 12/29/16 Email, Bossert to Flynn et al.; 12/29/16 Email, McFarland to Flynn et al.; SF000001 (12/29/16 Text Message, Flynn to Flaherty) (“Tit for tat w Russia not good. Russian AMBO reaching out to me today.”); Flynn 1/19/18 302, at 2.
Flynn, who was in the Dominican Republic at the time, and K.T. McFarland, who was slated to become the Deputy National Security Advisor and was at the Mar-a-Lago resort in Florida with the President-Elect and other senior staff, talked by phone about what, if anything, Flynn should communicate to Kislyak about the sanctions. McFarland had spoken with incoming Administration officials about the sanctions and Russia’s possible responses and thought she had mentioned in those conversations that Flynn was scheduled to speak with Kislyak. Based on those conversations, McFarland informed Flynn that incoming Administration officials at Mar-a-Lago did not want Russia to escalate the situation. At 4:43 p.m. that afternoon, McFarland sent an email to several officials about the sanctions and informed the group that “Gen [F]lynn is talking to russian ambassadr this evening.”

Approximately one hour later, McFarland met with the President-Elect and senior officials and briefed them on the sanctions and Russia’s possible responses. Incoming Chief of Staff Reince Priebus recalled that McFarland may have mentioned at the meeting that the sanctions situation could be “cooled down” and not escalated. McFarland recalled that at the end of the meeting, someone may have mentioned to the President-Elect that Flynn was speaking to the Russian Ambassador that evening. McFarland did not recall any response by the President-Elect. Priebus recalled that the President-Elect viewed the sanctions as an attempt by the Obama Administration to embarrass him by delegitimizing his election.

Immediately after discussing the sanctions with McFarland on December 29, 2016, Flynn called Kislyak and requested that Russia respond to the sanctions only in a reciprocal manner, without escalating the situation. After the call, Flynn briefed McFarland on its substance. Flynn told McFarland that the Russian response to the sanctions was not going to be escalatory because Russia wanted a good relationship with the Trump Administration. On December 30, 2016, Russian President Vladimir Putin announced that Russia would not take retaliatory measures

---

83 McFarland 12/22/17 302, at 4-7 (recalling discussions about this issue with Bannon and Priebus).
84 Flynn Statement of Offense, at 3; Flynn 11/17/17 302, at 3-4; McFarland 12/22/17 302, at 6-7.
85 12/29/16 Email, McFarland to Flynn et al.
87 Priebus 1/18/18 302, at 3.
88 McFarland 12/22/17 302, at 7. Priebus thought it was possible that McFarland had mentioned Flynn’s scheduled call with Kislyak at this meeting, although he was not certain. Priebus 1/18/18 302, at 3.
89 McFarland 1/22/17 302, at 7.
90 Priebus 1/18/18 302, at 3.
91 Flynn Statement of Offense, at 3; Flynn 11/17/17 302, at 3-4.
92 Flynn Statement of Offense, at 3; McFarland 12/22/17 302, at 7-8; Flynn 11/17/17 302, at 4.
93 McFarland 12/22/17 302, at 8.
in response to the sanctions at that time and would instead “plan . . . further steps to restore Russian-US relations based or the policies of the Trump Administration.” Following that announcement, the President-Elect tweeted, “Great move on delay (by V. Putin) - I always knew he was very smart!”

On December 31, 2016, Kislyak called Flynn and told him that Flynn’s request had been received at the highest levels and Russia had chosen not to retaliate in response to the request. Later that day, Flynn told McFarland about this follow-up conversation with Kislyak and Russia’s decision not to escalate the sanctions situation based on Flynn’s request. McFarland recalled that Flynn thought his phone call had made a difference. Flynn spoke with other incoming Administration officials that day, but does not recall whether they discussed the sanctions.

Flynn recalled discussing the sanctions issue with incoming Administration official Stephen Bannon the next day. Flynn said that Bannon appeared to know about Flynn’s conversations with Kislyak, and he and Bannon agreed that they had “stopped the train on Russia’s response” to the sanctions. On January 3, 2017, Flynn saw the President-Elect in person and thought they discussed the Russian reaction to the sanctions, but Flynn did not have a specific recollection of telling the President-Elect about the substance of his calls with Kislyak.

Members of the intelligence community were surprised by Russia’s decision not to retaliate in response to the sanctions. When analyzing Russia’s response, they became aware of Flynn’s discussion of sanctions with Kislyak. Previously, the FBI had opened an investigation of Flynn based on his relationship with the Russian government. Flynn’s contacts with Kislyak became a key component of that investigation.
2. President-Elect Trump is Briefed on the Intelligence Community’s Assessment of Russian Interference in the Election and Congress Opens Election-Interference Investigations

On January 6, 2017, as noted in Volume II, Section II.A.4, supra, intelligence officials briefed President-Elect Trump and the incoming Administration on the intelligence community’s assessment that Russia had interfered in the 2016 presidential election.\(^{107}\) When the briefing concluded, Comey spoke with the President-Elect privately to brief him on unverified, personally sensitive allegations compiled by Steele.\(^{108}\) According to a memorandum Comey drafted immediately after their private discussion, the President-Elect began the meeting by telling Comey he had conducted himself honorably over the prior year and had a great reputation.\(^{109}\) The President-Elect stated that he thought highly of Comey, looked forward to working with him, and hoped that he planned to stay on as FBI director.\(^{110}\) Comey responded that he intended to continue serving in that role.\(^{111}\) Comey then briefed the President-Elect on the sensitive material in the Steele reporting.\(^{112}\) Comey recalled that the President-Elect seemed defensive, so Comey decided

\(^{107}\) Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 1-2).

\(^{108}\) Comey 1/7/17 Memorandum, at 1; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 1-2).

\(^{109}\) Comey 1/7/17 Memorandum, at 1. Comey began drafting the memorandum summarizing the meeting immediately after it occurred. Comey 1/15/17 302, at 4. He finished the memorandum that evening and finalized it the following morning. Comey 1/15/17 302, at 4.

\(^{110}\) Comey 1/7/17 Memorandum, at 1; Comey 1/15/17 302, at 3. Comey identified several other occasions in January 2017 when the President reiterated that he hoped Comey would stay on as FBI director. On January 11, President-Elect Trump called Comey to discuss the Steele reports and stated that he thought Comey was doing great and the President-Elect hoped he would remain in his position as FBI director. Comey 1/15/17 302, at 4; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (testimony of James B. Comey, former Director of the FBI), CQ Cong. Transcripts, at 90. (“[D]uring that call, he asked me again, ‘Hope you’re going to stay, you’re doing a great job.’ And I told him that I intended to.’). On January 22, at a White House reception honoring law enforcement, the President greeted Comey and said he looked forward to working with him. Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (testimony of James B. Comey, former Director of the FBI), CQ Cong. Transcripts, at 22. And as discussed in greater detail in Volume II, Section II.D, infra, on January 27, the President invited Comey to dinner at the White House and said he was glad Comey wanted to stay on as FBI Director.

\(^{111}\) Comey 1/7/17 Memorandum, at 1; Comey 1/15/17 302, at 3.

\(^{112}\) Comey 1/7/17 Memorandum, at 1-2; Comey 1/15/17 302, at 3. Comey’s briefing included the Steele reporting’s unverified allegation that the Russians had compromising tapes of the President involving conduct when he was a private citizen during a 2013 trip to Moscow for the Miss Universe Pageant. During the 2016 presidential campaign, a similar claim may have reached candidate Trump. On October 30, 2016, Michael Cohen received a text from Russian businessman Giorgi Rtskhiladze that said, “Stopped flow of tapes from Russia but not sure if there’s anything else. Just so you know . . . .” 10/30/16 Text Message, Rtskhiladze to Cohen. Rtskhiladze said “tapes” referred to compromising tapes of Trump rumored to be held by persons associated with the Russian real estate conglomerate Crocus Group, which had helped host
to assure him that the FBI was not investigating him personally. Comey recalled he did not want the President-Elect to think of the conversation as a “J. Edgar Hoover move.”

On January 10, 2017, the media reported that Comey had briefed the President-Elect on the Steele reporting, and BuzzFeed News published information compiled by Steele online, stating that the information included “specific, unverified, and potentially unverifiable allegations of contact between Trump aides and Russian operatives.” The next day, the President-Elect expressed concern to intelligence community leaders about the fact that the information had leaked and asked whether they could make public statements refuting the allegations in the Steele reports.

In the following weeks, three Congressional committees opened investigations to examine Russia’s interference in the election and whether the Trump Campaign had colluded with Russia. On January 13, 2017, the Senate Select Committee on Intelligence (SSCI) announced that it would conduct a bipartisan inquiry into Russian interference in the election, including any “links between Russia and individuals associated with political campaigns.” On January 25, 2017, the House Permanent Select Committee on Intelligence (HPSCI) announced that it had been conducting an investigation into Russian election interference and possible coordination with the political campaigns. And on February 2, 2017, the Senate Judiciary Committee announced that it too would investigate Russian efforts to intervene in the election.

---

113 Comey 11/15/17 302, at 3-4; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 2).

114 Comey 11/15/17 302, at 3.

115 See, e.g., Evan Perez et al., Intel chiefs presented Trump with claims of Russian efforts to compromise him, CNN (Jan. 10, 2017; updated Jan. 12, 2017).

116 Ken Bensinger et al., These Reports Allege Trump Has Deep Ties To Russia, BuzzFeed News (Jan. 10, 2017).

117 See 1/11/17 Email, Clapper to Comey (“He asked if I could put out a statement. He would prefer of course that I say the documents are bogus, which, of course, I can’t do.”); 1/12/17 Email, Comey to Clapper (“He called me at 5 yesterday and we had a very similar conversation.”); Comey 11/15/17 302, at 4-5.


3. **Flynn Makes False Statements About his Communications with Kislyak to Incoming Administration Officials, the Media, and the FBI**

On January 12, 2017, a Washington Post columnist reported that Flynn and Kislyak communicated on the day the Obama Administration announced the Russia sanctions. The column questioned whether Flynn had said something to “undercut the U.S. sanctions” and whether Flynn’s communications had violated the letter or spirit of the Logan Act.

President-Elect Trump called Priebus after the story was published and expressed anger about it. Priebus recalled that the President-Elect asked, “What the hell is this all about?” Priebus called Flynn and told him that the President-Elect was angry about the reporting on Flynn’s conversations with Kislyak. Flynn recalled that he felt a lot of pressure because Priebus had spoken to the “boss” and said Flynn needed to “kill the story.” Flynn directed McFarland to call the Washington Post columnist and inform him that no discussion of sanctions had occurred. McFarland recalled that Flynn said words to the effect of, “I want to kill the story.” McFarland made the call as Flynn had requested although she knew she was providing false information, and the Washington Post updated the column to reflect that a “Trump official” had denied that Flynn and Kislyak discussed sanctions.

When Priebus and other incoming Administration officials questioned Flynn internally about the Washington Post column, Flynn maintained that he had not discussed sanctions with Kislyak. Flynn repeated that claim to Vice President-Elect Michael Pence and to incoming press secretary Sean Spicer. In subsequent media interviews in mid-January, Pence, Priebus, and

---


123 David Ignatius, *Why did Obama dawdle on Russia’s hacking?*, Washington Post (Jan. 12, 2017). The Logan Act makes it a crime for “[a]ny citizen of the United States, wherever he may be” to “without authority of the United States, directly or indirectly commence[] or carry[] on any correspondence or intercourse with any foreign government or any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States.” 18 U.S.C. § 953.

124 Priebus 1/18/18 302, at 6.

125 Priebus 1/18/18 302, at 6.

126 Priebus 1/18/18 302, at 6.

127 Flynn 11/21/17 302, at 1; Flynn 11/20/17 302, at 6.


129 McFarland 12/22/17 302, at 12.


131 Flynn 11/17/17 302, at 1, 8; Flynn 1/19/18 302, at 7; Priebus 10/13/17 302, at 7-8; S. Miller 8/31/17 302, at 8-11.

132 Flynn 11/17/17 302, at 1, 8; Flynn 1/19/18 302, at 7; S. Miller 8/31/17 302, at 10-11.
Spicer denied that Flynn and Kislyak had discussed sanctions, basing those denials on their conversations with Flynn.\textsuperscript{133}

The public statements of incoming Administration officials denying that Flynn and Kislyak had discussed sanctions alarmed senior DOJ officials, who were aware that the statements were not true.\textsuperscript{134} Those officials were concerned that Flynn had lied to his colleagues—who in turn had unwittingly misled the American public—creating a compromise situation for Flynn because the Department of Justice assessed that the Russian government could prove Flynn lied.\textsuperscript{135} The FBI investigative team also believed that Flynn’s calls with Kislyak and subsequent denials about discussing sanctions raised potential Logan Act issues and were relevant to the FBI’s broader Russia investigation.\textsuperscript{136}

On January 20, 2017, President Trump was inaugurated and Flynn was sworn in as National Security Advisor. On January 23, 2017, Spicer delivered his first press briefing and stated that he had spoken with Flynn the night before, who confirmed that the calls with Kislyak were about topics unrelated to sanctions.\textsuperscript{137} Spicer’s statements added to the Department of Justice’s concerns that Russia had leverage over Flynn based on his lies and could use that derogatory information to compromise him.\textsuperscript{138}

On January 24, 2017, Flynn agreed to be interviewed by agents from the FBI.\textsuperscript{139} During the interview, which took place at the White House, Flynn falsely stated that he did not ask Kislyak to refrain from escalating the situation in response to the sanctions on Russia imposed by the Obama Administration.\textsuperscript{140} Flynn also falsely stated that he did not remember a follow-up conversation in which Kislyak stated that Russia had chosen to moderate its response to those sanctions as a result of Flynn’s request.\textsuperscript{141}

\begin{itemize}
  \item \textsuperscript{133} \textit{Face the Nation Interview with Vice President-Elect Pence}, CBS (Jan. 15, 2017); Julie Hirschfield Davis et al., \textit{Trump National Security Advisor Called Russian Envoy Day Before Sanctions Were Imposed}, Washington Post (Jan. 13, 2017); \textit{Meet the Press Interview with Reince Priebus}, NBC (Jan. 15, 2017).
  \item \textsuperscript{134} Yates 8/15/17 302, at 2-3; McCord 7/17/17 302, at 3-4; McCabe 8/17/17 302, at 5 (DOJ officials were “really freaked out about it”).
  \item \textsuperscript{135} Yates 8/15/17 302, at 3; McCord 7/17/17 302, at 4.
  \item \textsuperscript{136} McCord 7/17/17 302, at 4; McCabe 8/17/17 302, at 5-6.
  \item \textsuperscript{137} Sean Spicer, \textit{White House Daily Briefing}, C-SPAN (Jan. 23, 2017).
  \item \textsuperscript{138} Yates 8/15/17 302, at 4; Axelrod 7/20/17 302, at 5.
  \item \textsuperscript{139} Flynn Statement of Offense, at 2.
  \item \textsuperscript{140} Flynn Statement of Offense, at 2.
  \item \textsuperscript{141} Flynn Statement of Offense, at 2. On December 1, 2017, Flynn admitted to making these false statements and pleaded guilty to violating 18 U.S.C. § 1001, which makes it a crime to knowingly and willfully “make[] any materially false, fictitious, or fraudulent statement or representation” to federal law enforcement officials. See Volume I, Section IV.A.7, \textit{supra}.  
\end{itemize}
4. DOJ Officials Notify the White House of Their Concerns About Flynn

On January 26, 2017, Acting Attorney General Sally Yates contacted White House Counsel Donald McGahn and informed him that she needed to discuss a sensitive matter with him in person.\(^{142}\) Later that day, Yates and Mary McCord, a senior national security official at the Department of Justice, met at the White House with McGahn and White House Counsel’s Office attorney James Burnham.\(^{143}\) Yates said that the public statements made by the Vice President denying that Flynn and Kislyak discussed sanctions were not true and put Flynn in a potentially compromised position because the Russians would know he had lied.\(^{144}\) Yates disclosed that Flynn had been interviewed by the FBI.\(^{145}\) She declined to answer a specific question about how Flynn had performed during that interview,\(^{146}\) but she indicated that Flynn’s statements to the FBI were similar to the statements he had made to Pence and Spicer denying that he had discussed sanctions.\(^{147}\) McGahn came away from the meeting with the impression that the FBI had not pinned Flynn down on lies,\(^{148}\) but he asked John Eisenberg, who served as legal advisor to the National Security Council, to examine potential legal issues raised by Flynn’s FBI interview and his contacts with Kislyak.\(^{149}\)

That afternoon, McGahn notified the President that Yates had come to the White House to discuss concerns about Flynn.\(^{150}\) McGahn described what Yates had told him, and the President asked him to repeat it, so he did.\(^{151}\) McGahn recalled that when he described the FBI interview of Flynn, he said that Flynn did not disclose having discussed sanctions with Kislyak, but that there may not have been a clear violation of 18 U.S.C. § 1001.\(^{152}\) The President asked about Section 1001, and McGahn explained the law to him, and also explained the Logan Act.\(^{153}\) The President

\(^{142}\) Yates 8/15/17 302, at 6.
\(^{143}\) Yates 8/15/17 302, at 6; McCord 7/17/17 302, at 6; SCR015_000198 (2/15/17 Draft Memorandum to file from the Office of the Counsel to the President).
\(^{144}\) Yates 8/15/17 302, at 6-8; McCord 7/17/17 302, at 6-7; Burnham 11/3/17 302, at 4; SCR015_000198 (2/15/17 Draft Memorandum to file from the Office of the Counsel to the President).
\(^{145}\) McGahn 11/30/17 302, at 5; Yates 8/15/17 302, at 7; McCord 7/17/17 302, at 7; Burnham 11/3/17 302, at 4.
\(^{146}\) Yates 8/15/17 302, at 7; McCord 7/17/17 302, at 7.
\(^{147}\) SCR015_000198 (2/15/17 Draft Memorandum to file from the Office of the Counsel to the President); Burnham 11/3/17 302, at 4.
\(^{148}\) McGahn 11/3/17 302, at 5.
\(^{149}\) SCR015_000198 (2/15/17 Draft Memorandum to file from the Office of the Counsel to the President); McGahn 11/30/17 302, at 6, 8.
\(^{150}\) McGahn 11/30/17 302, at 6; SCR015_000278 (White House Counsel’s Office Memorandum re: “Flynn Tick Tock”) (on January 26, “McGahn IMMEDIATELY advises POTUS”); SCR015_000198 (2/15/17 Draft Memorandum to file from the Office of the Counsel to the President).
\(^{151}\) McGahn 11/30/17 302, at 6.
\(^{152}\) McGahn 11/30/17 302, at 7.
\(^{153}\) McGahn 11/30/17 302, at 7.
instructed McGahn to work with Priebus and Bannon to look into the matter further and directed that they not discuss it with any other officials. 154 Priebus recalled that the President was angry with Flynn in light of what Yates had told the White House and said, “not again, this guy, this stuff.”155

That evening, the President dined with several senior advisors and asked the group what they thought about FBI Director Comey. 156 According to Director of National Intelligence Dan Coats, who was at the dinner, no one openly advocated terminating Comey but the consensus on him was not positive. 157 Coats told the group that he thought Comey was a good director. 158 Coats encouraged the President to meet Comey face-to-face and spend time with him before making a decision about whether to retain him.159

5. McGahn has a Follow-Up Meeting About Flynn with Yates; President Trump has Dinner with FBI Director Comey

The next day, January 27, 2017, McGahn and Eisenberg discussed the results of Eisenberg’s initial legal research into Flynn’s conduct, and specifically whether Flynn may have violated the Espionage Act, the Logan Act, or 18 U.S.C. § 1001. 160 Based on his preliminary research, Eisenberg informed McGahn that there was a possibility that Flynn had violated 18 U.S.C. § 1001 and the Logan Act. 161 Eisenberg noted that the United States had never successfully prosecuted an individual under the Logan Act and that Flynn could have possible defenses, and

154 McGahn 11/30/17 302, at 7; SCR015_000198-99 (2/15/17 Draft Memorandum to file from the Office of the Counsel to the President).

155 Priebus 10/13/17 302, at 8. Several witnesses said that the President was unhappy with Flynn for other reasons at this time. Bannon said that Flynn’s standing with the President was not good by December 2016. Bannon 2/12/18 302, at 12. The President-Elect had concerns because President Obama had warned him about Flynn shortly after the election. Bannon 2/12/18 302, at 4-5; Hicks 12/8/17 302, at 7 (President Obama’s comment sat with President-Elect Trump more than Hicks expected). Priebus said that the President had become unhappy with Flynn even before the story of his calls with Kislyak broke and had become so upset with Flynn that he would not look at him during intelligence briefings. Priebus 1/18/18 302, at 8. Hicks said that the President thought Flynn had bad judgment and was angered by tweets sent by Flynn and his son, and she described Flynn as “being on thin ice” by early February 2017. Hicks 12/8/17 302, at 7, 10.

156 Coats 6/14/17 302, at 2.

157 Coats 6/14/17 302, at 2.

158 Coats 6/14/17 302, at 2.

159 Coats 6/14/17 302, at 2.

160 SCR015_000199 (2/15/17 Draft Memorandum to file from the Office of the Counsel to the President); McGahn 11/30/17 302, at 8.

161 SCR015_000199 (2/15/17 Draft Memorandum to file from the Office of the Counsel to the President); Eisenberg 11/29/17 302, at 9.
told McGahn that he believed it was unlikely that a prosecutor would pursue a Logan Act charge under the circumstances.162

That same morning, McGahn asked Yates to return to the White House to discuss Flynn again.163 In that second meeting, McGahn expressed doubts that the Department of Justice would bring a Logan Act prosecution against Flynn, but stated that the White House did not want to take action that would interfere with an ongoing FBI investigation of Flynn.164 Yates responded that Department of Justice had notified the White House so that it could take action in response to the information provided.165 McGahn ended the meeting by asking Yates for access to the underlying information the Department of Justice possessed pertaining to Flynn’s discussions with Kislyak.166

Also on January 27, the President called FBI Director Comey and invited him to dinner that evening.167 Priebus recalled that before the dinner, he told the President something like, “don’t talk about Russia, whatever you do,” and the President promised he would not talk about Russia at the dinner.168 McGahn had previously advised the President that he should not communicate directly with the Department of Justice to avoid the perception or reality of political interference in law enforcement.169 When Bannon learned about the President’s planned dinner with Comey, he suggested that he or Priebus also attend, but the President stated that he wanted to dine with Comey alone.170 Comey said that when he arrived for the dinner that evening, he was surprised and concerned to see that no one else had been invited.171

---

162 SCR015_001999 (2/15/17 Draft Memorandum to file from the Office of the Counsel to the President); Eisenberg 1/29/17 302, at 9.

163 SCR015_001999 (2/15/17 Draft Memorandum to file from the Office of the Counsel to the President); McGahn 1/30/17 302, at 8; Yates 8/15/17 302, at 8.

164 Yates 8/15/17 302, at 9; McGahn 11/30/17 302, at 8.

165 Yates 8/15/17 302, at 9; Burnham 11/3/17 302, at 5; see SCR015_001999 (2/15/17 Draft Memorandum to file from the Office of the Counsel to the President) (“Yates was unwilling to confirm or deny that there was an ongoing investigation but did indicate that the Department of Justice would not object to the White House taking action against Flynn.”).

166 Yates 9/15/17 302, at 9; Burnham 11/3/17 302, at 5. In accordance with McGahn’s request, the Department of Justice made the underlying information available and Eisenberg viewed the information in early February. Eisenberg 11/29/17 302, at 5; FBI 2/7/17 Electronic Communication, at 1 (documenting 2/2/17 meeting with Eisenberg).

167 Comey 11/15/17 302, at 6; SCR012b_000001 (President’s Daily Diary, 1/27/17); Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 2-3).

168 Priebus 10/13/17 302, at 17.

169 See McGahn 11/30/17 302, at 9; Dhillon 11/21/17 302, at 2; Bannon 2/12/18 302, at 17.

170 Bannon 2/12/18 302, at 17.

171 Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 3); see Comey 11/15/17 302, at 6.
Comey provided an account of the dinner in a contemporaneous memo, an interview with this Office, and congressional testimony. According to Comey’s account of the dinner, the President repeatedly brought up Comey’s future, asking whether he wanted to stay on as FBI director.\footnote{Comey 11/15/17 302, at 7; Comey 1/28/17 Memorandum, at 1, 3; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 3).} Because the President had previously said he wanted Comey to stay on as FBI director, Comey interpreted the President’s comments as an effort to create a patronage relationship by having Comey ask for his job.\footnote{Comey 11/15/17 302, at 7; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 3).} The President also brought up the Steele reporting that Comey had raised in the January 6, 2017 briefing and stated that he was thinking about ordering the FBI to investigate the allegations to prove they were false.\footnote{Comey 1/28/17 Memorandum, at 3; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 4).} Comey responded that the President should think carefully about issuing such an order because it could create a narrative that the FBI was investigating him personally, which was incorrect.\footnote{Comey 1/28/17 Memorandum, at 3; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 4).} Later in the dinner, the President brought up Flynn and said, “the guy has serious judgment issues.”\footnote{Comey 1/28/17 Memorandum, at 3; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 3).} Comey did not comment on Flynn and the President did not acknowledge any FBI interest in or contact with Flynn.\footnote{Comey 11/15/17 302, at 7; Comey 1/28/17 Memorandum, at 1, 3; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 3).}

According to Comey’s account, at one point during the dinner the President stated, “I need loyalty, I expect loyalty.”\footnote{Comey 11/15/17 302, at 7.} Comey did not respond and the conversation moved on to other topics, but the President returned to the subject of Comey’s job at the end of the dinner and repeated, “I need loyalty.”\footnote{Comey 11/15/17 302, at 7.} Comey responded, “You will always get honesty from me.”\footnote{Comey 12/8/17 Memorandum, at 4; Comey 11/15/17 302, at 7.} The
President said, “That’s what I want, honest loyalty.”

Comey said, “You will get that from me.”

After Comey’s account of the dinner became public, the President and his advisors disputed that he had asked for Comey’s loyalty. The President also indicated that he had not invited Comey to dinner, telling a reporter that he thought Comey had “asked for the dinner” because “he wanted to stay on.” But substantial evidence corroborates Comey’s account of the dinner invitation and the request for loyalty. The President’s Daily Diary confirms that the President “extend[ed] a dinner invitation” to Comey on January 27. With respect to the substance of the dinner conversation, Comey documented the President’s request for loyalty in a memorandum he began drafting the night of the dinner; senior FBI officials recall that Comey told them about the loyalty request shortly after the dinner occurred; and Comey described the request while

---

181 Comey 1/23/17 Memorandum, at 3; Comey 11/15/17 302, at 7; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 4).

182 Comey 1/23/17 Memorandum, at 3; Comey 11/15/17 302, at 7; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 4).

183 See, e.g., Michael S. Schmidt, In a Private Dinner, Trump Demanded Loyalty. Comey Demurred., New York Times (May 11, 2017) (quoting Sarah Sanders as saying, “[The President] would never even suggest the expectation of personal loyalty”); Ali Vitali, Trump Never Asked for Comey’s Loyalty, President’s Personal Lawyer Says, NBC (June 8, 2017) (quoting the President’s personal counsel as saying, “The president also never told Mr. Comey, ‘I need loyalty, I expect loyalty,’ in form or substance.”); Remarks by President Trump in Press Conference, White House (June 9, 2017) (“I hardly know the man. I’m not going to say ‘I want you to pledge allegiance.’ Who would do that? Who would ask a man to pledge allegiance under oath?”). In a private conversation with Spicer, the President stated that he had never asked for Comey’s loyalty, but added that if he had asked for loyalty, “Who cares?” Spicer 10/16/17 302, at 4. The President also told McGahn that he never said what Comey said he had. McGahn 12/12/17 302, at 17.

184 Interview of Donald J. Trump, NBC (May 11, 2017).

185 SCR012b 000001 (President’s Daily Diary, 1/27/17) (reflecting that the President called Comey in the morning on January 27 and “[t]he purpose of the call was to extend a dinner invitation”). In addition, two witnesses corroborate Comey’s account that the President reached out to schedule the dinner, without Comey having asked for it. Priebus 10/13/17 302, at 17 (the President asked to schedule the January 27 dinner because he did not know much about Comey and intended to ask him whether he wanted to stay on as FBI Director); Rybicki 11/21/18 302, at 3 (recalling that Comey told him about the President’s dinner invitation on the day of the dinner).

186 Comey 11/15/17 302, at 8; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 4).

187 McCabe 8/17/17 302, at 9-10; Rybicki 11/21/18 302, at 3. After leaving the White House, Comey called Deputy Director of the FBI Andrew McCabe, summarized what he and the President had discussed, including the President’s request for loyalty, and expressed shock over the President’s request. McCabe 8/17/17 302, at 9. Comey also convened a meeting with his senior leadership team to discuss what the President had asked of him during the dinner and whether he had handled the request for loyalty properly. McCabe 8/17/17 302, at 10; Rybicki 11/21/18 302, at 3. In addition, Comey distributed his
under oath in congressional proceedings and in a subsequent interview with investigators subject to penalties for lying under 18 U.S.C. § 1001. Comey’s memory of the details of the dinner, including that the President requested loyalty, has remained consistent throughout.188

6. Flynn’s Resignation

On February 2, 2017, Eisenberg reviewed the underlying information relating to Flynn’s calls with Kislyak.189 Eisenberg recalled that he prepared a memorandum about criminal statutes that could apply to Flynn’s conduct, but he did not believe the White House had enough information to make a definitive recommendation to the President.190 Eisenberg and McGahn discussed that Eisenberg’s review of the underlying information confirmed his preliminary conclusion that Flynn was unlikely to be prosecuted for violating the Logan Act.191 Because White House officials were uncertain what Flynn had told the FBI, however, they could not assess his exposure to prosecution for violating 18 U.S.C. § 1001.192

The week of February 6, Flynn had a one-on-one conversation with the President in the Oval Office about the negative media coverage of his contacts with Kislyak.193 Flynn recalled that the President was upset and asked him for information on the conversations.194 Flynn listed the specific dates on which he remembered speaking with Kislyak, but the President corrected one of the dates he listed.195 The President asked Flynn what he and Kislyak discussed and Flynn responded that he might have talked about sanctions.196

memorandum documenting the dinner to his senior leadership team, and McCabe confirmed that the memorandum captured what Comey said on the telephone call immediately following the dinner. McCabe 8/17/17 302, at 9-10.

188 There also is evidence that corroborates other aspects of the memoranda Comey wrote documenting his interactions with the President. For example, Comey recalled, and his memoranda reflect, that he told the President in his January 6, 2017 meeting, and on phone calls on March 30 and April 11, 2017, that the FBI was not investigating the President personally. On May 8, 2017, during White House discussions about firing Comey, the President told Rosenstein and others that Comey had told him three times that he was not under investigation, including once in person and twice on the phone. Gauhar-000058 (Gauhar 5/16/17 Notes).

189 Eisenberg 1/29/17 302, at 5; FBI 2/7/17 Electronic Communication, at 1 (documenting 2/2/17 meeting with Eisenberg).

190 Eisenberg 1/29/17 302, at 6.

191 Eisenberg 11/29/17 302, at 9; SCR015_000200 (2/15/17 Draft Memorandum to file from the Office of the Counsel to the President).

192 Eisenberg 1/29/17 302, at 9.


194 Flynn 11/21/17 302, at 2.


On February 9, 2017, the Washington Post reported that Flynn discussed sanctions with Kislyak the month before the President took office.\textsuperscript{197} After the publication of that story, Vice President Pence learned of the Department of Justice's notification to the White House about the content of Flynn's calls.\textsuperscript{198} He and other advisors then sought access to and reviewed the underlying information about Flynn's contacts with Kislyak.\textsuperscript{199} FBI Deputy Director Andrew McCabe, who provided the White House officials access to the information and was present when they reviewed it, recalled the officials asking him whether Flynn's conduct violated the Logan Act.\textsuperscript{200} McCabe responded that he did not know, but the FBI was investigating the matter because it was a possibility.\textsuperscript{201} Based on the evidence of Flynn's contacts with Kislyak, McGahn and Priebus concluded that Flynn could not have forgotten the details of the discussions of sanctions and had instead been lying about what he discussed with Kislyak.\textsuperscript{202} Flynn had also told White House officials that the FBI had told him that the FBI was closing out its investigation of him,\textsuperscript{203} but Eisenberg did not believe him.\textsuperscript{204} After reviewing the materials and speaking with Flynn, McGahn and Priebus concluded that Flynn should be terminated and recommended that course of action to the President.\textsuperscript{205}

That weekend, Flynn accompanied the President to Mar-a-Lago.\textsuperscript{206} Flynn recalled that on February 12, 2017, on the return flight to D.C. on Air Force One, the President asked him whether he had lied to the Vice President.\textsuperscript{207} Flynn responded that he may have forgotten details of his calls, but he did not think he lied.\textsuperscript{208} The President responded, "Okay. That's fine. I got it."\textsuperscript{209}

\textsuperscript{197} Greg Miller et al., \textit{National security adviser Flynn discussed sanctions with Russian ambassador, despite denials, officials say}, Washington Post (Feb. 9, 2017).

\textsuperscript{198} SCR015_000202 (2/15/17 Draft Memorandum to file from the Office of the Counsel to the President); McGahn 1/30/17 302, at 12.

\textsuperscript{199} SCR015_000202 (2/15/17 Draft Memorandum to file from the Office of the Counsel to the President); McCabe 8/17/17 302, at 11-13; Priebus 10/13/17 302, at 10; McGahn 11/30/17 302, at 12.

\textsuperscript{200} McCabe 8/17/17 302, at 13.

\textsuperscript{201} McCabe 8/17/17 302, at 13.

\textsuperscript{202} McGahn 11/30/17 302, at 12; Priebus 10/13/17 302, at 8; Priebus 10/13/17 302, at 10; SCR015_000202 (2/15/17 Draft Memorandum to file from the Office of the Counsel to the President).

\textsuperscript{203} McGahn 11/30/17 302, at 11; Eisenberg 11/29/17 302, at 9; Priebus 10/13/17 302, at 11.

\textsuperscript{204} Eisenberg 11/29/17 302, at 9.

\textsuperscript{205} SCR015_000202 (2/15/17 Draft Memorandum to file from the Office of the Counsel to the President); Priebus 10/13/17 302, at 10; McGahn 11/30/17 302, at 12.

\textsuperscript{206} Flynn 11/17/17 302, at 8.

\textsuperscript{207} Flynn 1/19/18 302, at 9; Flynn 11/17/17 302, at 8.

\textsuperscript{208} Flynn 11/17/17 302, at 8; Flynn 1/19/18 302, at 9.

\textsuperscript{209} Flynn 1/19/18 302, at 9.
On February 13, 2017, Priebus told Flynn he had to resign.210 Flynn said he wanted to say goodbye to the President, so Priebus brought him to the Oval Office.211 Priebus recalled that the President hugged Flynn, shook his hand, and said, “We’ll give you a good recommendation. You’re a good guy. We’ll take care of you.”212

Talking points on the resignation prepared by the White House Counsel’s Office and distributed to the White House communications team stated that McGahn had advised the President that Flynn was unlikely to be prosecuted, and the President had determined that the issue with Flynn was one of trust.213 Spicer told the press the next day that Flynn was forced to resign “not based on a legal issue, but based on a trust issue, [where] a level of trust between the President and General Flynn had eroded to the point where [the President] felt he had to make a change.”214

7. The President Discusses Flynn with FBI Director Comey

On February 14, 2017, the day after Flynn’s resignation, the President had lunch at the White House with New Jersey Governor Chris Christie.215 According to Christie, at one point during the lunch the President said, “Now that we fired Flynn, the Russia thing is over.”216 Christie laughed and responded, “No way.”217 He said, “this Russia thing is far from over” and “[w]e’ll be here on Valentine’s Day 2018 talking about this.”218 The President said, “[w]hat do you mean? Flynn met with the Russians. That was the problem. I fired Flynn. It’s over.”219 Christie recalled responding that based on his experience both as a prosecutor and as someone who had been investigated, firing Flynn would not end the investigation.220 Christie said there was no way to make an investigation shorter, but a lot of ways to make it longer.221 The President asked Christie what he meant, and Christie told the President not to talk about the investigation even if he was

---

210 Priebus 1/18/18 302, at 9.
211 Priebus 1/18/18 302, at 9; Flynn 11/17/17 302, at 10.
212 Priebus 1/18/18 302, at 9; Flynn 11/17/17 302, at 10.
213 SCR004_00600 (2/16/17 Email, Burnham to Donaldson).
214 Sean Spicer, White House Daily Briefing, C-SPAN (Feb. 14, 2017). After Flynn pleaded guilty to violating 18 U.S.C. § 1001 in December 2017, the President tweeted, “I had to fire General Flynn because he lied to the Vice President and the FBI.” @realDonaldTrump 12/2/17 (12:14 p.m. ET) Tweet. The next day, the President’s personal counsel told the press that he had drafted the tweet. Maegan Vazquez et al., Trump’s lawyer says he was behind President’s tweet about firing Flynn, CNN (Dec. 3, 2017).
215 Christie 2/13/19 302, at 2-3; SCR012b_000022 (President’s Daily Diary, 2/14/17).
216 Christie 2/13/19 302, at 3.
217 Christie 2/13/19 302, at 3.
218 Christie 2/13/19 302, at 3. Christie said he thought when the President said “the Russia thing” he was referring to no just the investigations but also press coverage about Russia. Christie thought the more important thing was that there was an investigation. Christie 2/13/19 302, at 4.
219 Christie 2/13/19 302, at 3.
220 Christie 2/13/19 302, at 3.
221 Christie 2/13/19 302, at 3.
frustrated at times.\textsuperscript{222} Christie also told the President that he would never be able to get rid of Flynn, “like gum on the bottom of your shoe."\textsuperscript{223}

Towards the end of the lunch, the President brought up Comey and asked if Christie was still friendly with him.\textsuperscript{224} Christie said he was.\textsuperscript{225} The President told Christie to call Comey and tell him that the President “really like[s] him. Tell him he’s part of the team.”\textsuperscript{226} At the end of the lunch, the President repeated his request that Christie reach out to Comey.\textsuperscript{227} Christie had no intention of complying with the President’s request that he contact Comey.\textsuperscript{228} He thought the President’s request was “nonsensical” and Christie did not want to put Comey in the position of having to receive such a phone call.\textsuperscript{229} Christie thought it would have been uncomfortable to pass on that message.\textsuperscript{230}

At 4 p.m. that afternoon, the President met with Comey, Sessions, and other officials for a homeland security briefing.\textsuperscript{231} At the end of the briefing, the President dismissed the other attendees and stated that he wanted to speak to Comey alone.\textsuperscript{232} Sessions and senior advisor to the President Jared Kushner remained in the Oval Office as other participants left, but the President

\textsuperscript{222} Christie 2/13/19 302, at 3-4.

\textsuperscript{223} Christie 2/13/19 302, at 3. Christie also recalled that during the lunch, Flynn called Kushner, who was at the lunch, and complained about what Spicer had said about Flynn in his press briefing that day. Kushner told Flynn words to the effect of, “You know the President respects you. The President cares about you. I’ll get the President to send out a positive tweet about you later.” Kushner looked at the President when he mentioned the tweet, and the President nodded his assent. Christie 2/13/19 302, at 3. Flynn recalled getting upset at Spicer’s comments in the press conference and calling Kushner to say he did not appreciate the comments. Flynn 1/19/18 302, at 9.

\textsuperscript{224} Christie 2/13/19 302, at 4.

\textsuperscript{225} Christie 2/13/19 302, at 4.

\textsuperscript{226} Christie 2/13/19 302, at 4-5.

\textsuperscript{227} Christie 2/13/19 302, at 5.

\textsuperscript{228} Christie 2/13/19 302, at 5.

\textsuperscript{229} Christie 2/13/19 302, at 5.

\textsuperscript{230} Christie 2/13/19 302, at 5.

\textsuperscript{231} SCRO12b_000022 (President’s Daily Diary, 2/14/17); Comey 11/15/17 302, at 9.

\textsuperscript{232} Comey 11/15/17 302, at 10; 2/14/17 Comey Memorandum, at 1; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 4); Priebus 10/13/17 302, at 18 (confirming that everyone was shown out “like Comey said” in his June testimony).
excused them, repeating that he wanted to speak only with Comey.\textsuperscript{233} At some point after others had left the Oval Office, Priebus opened the door, but the President sent him away.\textsuperscript{234}

According to Comey’s account of the meeting, once they were alone, the President began the conversation by saying, “I want to talk about Mike Flynn.”\textsuperscript{235} The President stated that Flynn had not done anything wrong in speaking with the Russians, but had to be terminated because he had misled the Vice President.\textsuperscript{236} The conversation turned to the topic of leaks of classified information, but the President returned to Flynn, saying “he is a good guy and has been through a lot.”\textsuperscript{237} The President stated, “I hope you can see your way clear to letting this go, to letting Flynn go. He is a good guy. I hope you can let this go.”\textsuperscript{238} Comey agreed that Flynn “is a good guy,” but did not commit to ending the investigation of Flynn.\textsuperscript{239} Comey testified under oath that he took the President’s statement “as a direction” because of the President’s position and the circumstances of the one-on-one meeting.\textsuperscript{240}

\textsuperscript{233} Comey 11/15/17 302, at 10; Comey 2/14/17 Memorandum, at 1; \textit{Hearing on Russian Election Interference Before the Senate Select Intelligence Committee}, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 4). Sessions recalled that the President asked to speak to Comey alone and that Sessions was one of the last to leave the room; he described Comey’s testimony about the events leading up to the private meeting with the President as “pretty accurate.” Sessions 1/17/18 302, at 6. Kushner had no recollection of whether the President asked Comey to stay behind. Kushner 4/11/18 302, at 24.

\textsuperscript{234} Comey 2/14/17 Memorandum, at 2; Priebus 10/13/17 302, at 18.

\textsuperscript{235} Comey 11/15/17 302, at 10; Comey 2/14/17 Memorandum, at 1; \textit{Hearing on Russian Election Interference Before the Senate Select Intelligence Committee}, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 4).

\textsuperscript{236} Comey 2/14/17 Memorandum, at 1; \textit{Hearing on Russian Election Interference Before the Senate Select Intelligence Committee}, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 5).

\textsuperscript{237} Comey 11/15/17 302, at 10; Comey 2/14/17 Memorandum, at 2; \textit{Hearing on Russian Election Interference Before the Senate Select Intelligence Committee}, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 5).

\textsuperscript{238} \textit{Hearing on Russian Election Interference Before the Senate Select Intelligence Committee}, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 5); Comey 2/14/17 Memorandum, at 2. Comey said he was highly confident that the words in quotations in his Memorandum documenting this meeting were the exact words used by the President. He said he knew from the outset of the meeting that he was about to have a conversation of consequence, and he remembered the words used by the President and wrote them down soon after the meeting. Comey 11/15/17 302, at 10-11.

\textsuperscript{239} Comey 11/15/17 302, at 10; Comey 2/14/17 Memorandum, at 2.

\textsuperscript{240} \textit{Hearing on Russian Election Interference Before the Senate Select Intelligence Committee}, 115th Cong. (June 8, 2017) (CQ Cong. Transcripts, at 31) (testimony of James B. Comey, former Director of the FBI). Comey further stated, “I mean, this is the president of the United States, with me alone, saying, ‘I hope’ this. I took it as, this is what he wants me to do.” \textit{Id.}; see also Comey 11/15/17 302, at 10 (Comey took the statement as an order to shut down the Flynn investigation).
Shortly after meeting with the President, Comey began drafting a memorandum documenting their conversation. Comey also met with his senior leadership team to discuss the President’s request, and they agreed not to inform FBI officials working on the Flynn case of the President’s statements so the officials would not be influenced by the request. Comey also asked for a meeting with Sessions and requested that Sessions not leave Comey alone with the President again.

8. The Media Raises Questions About the President’s Delay in Terminating Flynn

After Flynn was forced to resign, the press raised questions about why the President waited more than two weeks after the DOJ notification to remove Flynn and whether the President had known about Flynn’s contacts with Kislyak before the DOJ notification. The press also continued to raise questions about connections between Russia and the President’s campaign. On February 15, 2017, the President told reporters, “General Flynn is a wonderful man. I think he’s been treated very, very unfairly by the media.” On February 16, 2017, the President held

---

241 Comey 11/ 5/17 302, at 11; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the record of James B. Comey, former Director of the FBI, at 5).

242 Comey 11/15/17 302, at 11; Rybicki 6/9/17 302, at 4; Rybicki 6/22/17 302, at 1; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the record of James B. Comey, former Director of the FBI, at 5-6).

243 Comey 11/15/17 302, at 11; Rybicki 6/9/17 302, at 4-5; Rybicki 6/22/17 302, at 1-2; Sessions 1/17/18 302, at 6 (confirming that later in the week following Comey’s one-on-one meeting with the President in the Oval Office, Comey told the Attorney General that he did not want to be alone with the President); Hunt 2/1/18 302, at 6 (within days of the February 14 Oval Office meeting, Comey told Sessions he did not think it was appropriate for the FBI Director to meet alone with the President); Rybicki 11/2/18 302, at 4 (Rybicki helped to schedule the meeting with Sessions because Comey wanted to talk about his concerns about meeting with the President alone); Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the record of James B. Comey, former Director of the FBI, at 6).

244 See, e.g., Sean Spicer, White House Daily Briefing, C-SPAN (Feb. 14, 2017) (questions from the press included, “if [the President] was notified 17 days ago that Flynn had misled the Vice President, other officials here, and that he was a potential threat to blackmail by the Russians, why would he be kept on for almost three weeks?” and “Did the President instruct [Flynn] to talk about sanctions with the [Russian ambassador]?”). Priebus recalled that the President initially equivocated on whether to fire Flynn because it would generate negative press to lose his National Security Advisor so early in his term. Priebus 1/18/18 302, at 8.

245 E.g., Sean Sullivan et al., Senators from both parties pledge to deepen probe of Russia and the 2016 election, Washington Post (Feb. 14, 2017); Aaron Blake, 5 times Donald Trump’s team denied contact with Russia, Washington Post (Feb. 15, 2017); Oren Dorell, Donald Trump’s ties to Russia go back 30 years, USA Today (Feb. 15, 2017); Pamela Brown et al., Trump aides were in constant touch with senior Russian officials during campaign, CNN (Feb. 15, 2017); Austin Wright, Comey briefs senators amid furor over Trump-Russia ties, Politico (Feb. 17, 2017); Megan Twohey & Scott Shane, A Back-Channel Plan for Ukraine and Russia, Courtesy of Trump Associates, New York Times (Feb. 19, 2017).

a press conference and said that he removed Flynn because Flynn “didn’t tell the Vice President of the United States the facts, and then he didn’t remember. And that just wasn’t acceptable to me.”

The President said he did not direct Flynn to discuss sanctions with Kislyak, but “it certainly would have been okay with me if he did. I would have directed him to do it if I thought he wasn’t doing it. I didn’t direct him, but I would have directed him because that’s his job.” In listing the reasons for terminating Flynn, the President did not say that Flynn had lied to him.

The President also denied having any connection to Russia, stating, “I have nothing to do with Russia. I told you, I have no deals there. I have no anything.” The President also said he “had nothing to do with” WikiLeaks’s publication of information hacked from the Clinton campaign.

9. The President Attempts to Have K.T. McFarland Create a Witness Statement Denying that he Directed Flynn’s Discussions with Kislyak

On February 22, 2017, Priebus and Bannon told McFarland that the President wanted her to resign as Deputy National Security Advisor, but they suggested to her that the Administration could make her the ambassador to Singapore. The next day, the President asked Priebus to have McFarland draft an internal email that would confirm that the President did not direct Flynn to call the Russian Ambassador about sanctions. Priebus said he told the President he would only direct McFarland to write such a letter if she were comfortable with it. Priebus called McFarland into his office to convey the President’s request that she memorialize in writing that the President did not direct Flynn to talk to Kislyak. McFarland told Priebus she did not know whether the President had directed Flynn to talk to Kislyak about sanctions, and she declined to say yes or no.

---

248 Remarks by President Trump in Press Conference, White House (Feb. 16, 2017). The President also said that Flynn’s conduct “wasn’t wrong — what he did in terms of the information he saw.” The President said that Flynn was just “doing the job,” and “if anything, he did something right.”
249 Remarks by President Trump in Press Conference, White House (Feb. 16, 2017); Priebus 1/18/18 302, at 9.
252 KTMF_0000047 (McFarland 2/26/17 Memorandum for the Record); McFarland 12/22/17 302, at 16-17.
253 See Priebus 1/18/18 302, at 11; see also KTMF_0000048 (McFarland 2/26/17 Memorandum for the Record); McFarland 12/22/17 302, at 17.
254 Priebus 1/18/18 302, at 11.
255 KTMF_0000048 (McFarland 2/26/17 Memorandum for the Record); McFarland 12/22/17 302, at 17.
to the request.\textsuperscript{256} Priebus understood that McFarland was not comfortable with the President’s request, and he recommended that she talk to attorneys in the White House Counsel’s Office.\textsuperscript{257}

McFarland then reached out to Eisenberg.\textsuperscript{258} McFarland told him that she had been fired from her job as Deputy National Security Advisor and offered the ambassadorship in Singapore but that the President and Priebus wanted a letter from her denying that the President directed Flynn to discuss sanctions with Kislyak.\textsuperscript{259} Eisenberg advised McFarland not to write the requested letter.\textsuperscript{260} As documented by McFarland in a contemporaneous “Memorandum for the Record” that she wrote because she was concerned by the President’s request: “Eisenberg . . . thought the requested email and letter would be a bad idea – from my side because the email would be awkward. Why would I be emailing Priebus to make a statement for the record? But it would also be a bad idea for the President because it looked as if my ambassadorial appointment was in some way a quid pro quo.”\textsuperscript{261} Later that evening, Priebus stopped by McFarland’s office and told her not to write the email and to forget he even mentioned it.\textsuperscript{262}

Around the same time, the President asked Priebus to reach out to Flynn and let him know that the President still cared about him.\textsuperscript{263} Priebus called Flynn and said that he was checking in and that Flynn was an American hero.\textsuperscript{264} Priebus thought the President did not want Flynn saying bad things about him.\textsuperscript{265}

On March 31, 2017, following news that Flynn had offered to testify before the FBI and congressional investigators in exchange for immunity, the President tweeted, “Mike Flynn should ask for immunity in that this is a witch hunt (excuse for big election loss), by media & Dems, of

\textsuperscript{256} KTMF\_00000047 (McFarland 2/26/17 Memorandum for the Record) (“I said I did not know whether he did or didn’t, but was in Maralago the week between Christmas and New Year’s (while Flynn was on vacation in Carribbean) and I was not aware of any Flynn-Trump, or Trump-Russian phone calls”); McFarland 12/22/17 302, at 17.

\textsuperscript{257} Priebus 1/18/18 302, at 11.

\textsuperscript{258} McFarland 12/22/17 302, at 17.

\textsuperscript{259} McFarland 12/22/17 302, at 17.

\textsuperscript{260} KTMF\_00000048 (McFarland 2/26/17 Memorandum for the Record); McFarland 12/22/17 302, at 17.

\textsuperscript{261} KTMF\_00000048 (McFarland 2/26/17 Memorandum for the Record); see McFarland 12/22/17 302, at 17.

\textsuperscript{262} McFarland 12/22/17 302, at 17; KTMF\_00000048 (McFarland 2/26/17 Memorandum for the Record).

\textsuperscript{263} Priebus 1/18/18 302, at 9.

\textsuperscript{264} Priebus 1/18/18 302, at 9; Flynn 1/19/18 302, at 9.

\textsuperscript{265} Priebus 1/18/18 302, at 9-10.
In late March or early April, the President asked McFarland to pass a message to Flynn telling him the President felt bad for him and that he should stay strong.\footnote{McFarland 12/22/17 302, at 18.}

**Analysis**

In analyzing the President’s conduct related to the Flynn investigation, the following evidence is relevant to the elements of obstruction of justice:

a. **Obstructive act.** According to Comey’s account of his February 14, 2017 meeting in the Oval Office, the President told him, “I hope you can see your way clear to letting this go, to letting Flynn go. . . . I hope you can let this go.” In analyzing whether these statements constitute an obstructive act, a threshold question is whether Comey’s account of the interaction is accurate, and, if so, whether the President’s statements had the tendency to impede the administration of justice by shutting down an inquiry that could result in a grand jury investigation and a criminal charge.

After Comey’s account of the President’s request to “let[] Flynn go” became public, the President publicly disputed several aspects of the story. The President told the New York Times that he did not “shoo other people out of the room” when he talked to Comey and that he did not remember having a one-on-one conversation with Comey.\footnote{Excerpts From The Times’s Interview With Trump, New York Times (July 19, 2017).} The President also publicly denied that he had asked Comey to “let[] Flynn go” or otherwise communicated that Comey should drop the investigation of Flynn.\footnote{In a statement on May 16, 2017, the White House said: “While the President has repeatedly expressed his view that General Flynn is a decent man who served and protected our country, the President has never asked Mr. Comey or anyone else to end any investigation, including any investigation involving General Flynn. . . . This is not a truthful or accurate portrayal of the conversation between the President and Mr. Comey.” See Michael S. Schmidt, Comey Memorandum Says TrumpAsked Him to End Flynn Investigation, New York Times (May 16, 2017) (quoting White House statement); @realDonaldTrump 12/3/17 (3:13 a.m. ET; Tweet (“I never asked Comey to stop investigating Flynn. Just more Fake News covering another Comey lie!”)).} In private, the President denied aspects of Comey’s account to White House advisors, but acknowledged to Priebus that he brought Flynn up in the meeting with Comey and stated that Flynn was a good guy.\footnote{Priebus recalled that the President acknowledged telling Comey that Flynn was a good guy and he hoped “everything worked out for him.” Priebus 10/13/17 302, at 19. McGahn recalled that the President denied saying to Comey that he hoped Comey would let Flynn go, but added that he was “allowed to hope.” The President told McGahn he did not think he had crossed any lines. McGahn 12/14/17 302, at 8.} Despite those denials, substantial evidence corroborates Comey’s account.

\footnote{Hicks recalled that the President told her he had never asked Comey to stay behind in his office. Hicks 12/8/17 302, at 12.}

\footnote{McFarland 12/22/17 302, at 18.}

\footnote{@realdonaldjtrump 3/31/17 (7:04 a.m. ET) Tweet; see Shane Harris at al., Mike Flynn Offers to Testify in Exchange for Immunity, Wall Street Journal (Mar. 30, 2017).}

\footnote{McFarland 12/22/17 302, at 18.}
First, Comey wrote a detailed memorandum of his encounter with the President on the same day it occurred. Comey also told senior FBI officials about the meeting with the President that day, and their recollections of what Comey told them at the time are consistent with Comey’s account. 271

Second, Comey provided testimony about the President’s request that he “let[] Flynn go” under oath in congressional proceedings and in interviews with federal investigators subject to penalties for lying under 18 U.S.C. § 1001. Comey’s recollections of the encounter have remained consistent over time.

Third, the objective, corroborated circumstances of how the one-on-one meeting came to occur support Comey’s description of the event. Comey recalled that the President cleared the room to speak with Comey alone after a homeland security briefing in the Oval Office, that Kushner and Sessions lingered and had to be shooed out by the President, and that Priebus briefly opened the door during the meeting, prompting the President to wave him away. While the President has publicly denied those details, other Administration officials who were present have confirmed Comey’s account of how he ended up in a one-on-one meeting with the President. 272 And the President acknowledged to Priebus and McGahn that he in fact spoke to Comey about Flynn in their one-on-one meeting.

Fourth, the President’s decision to clear the room and, in particular, to exclude the Attorney General from the meeting signals that the President wanted to be alone with Comey, which is consistent with the delivery of a message of the type that Comey recalls, rather than a more innocuous conversation that could have occurred in the presence of the Attorney General.

Finally, Comey’s reaction to the President’s statements is consistent with the President having asked him to “let[] Flynn go.” Comey met with the FBI leadership team, which agreed to keep the President’s statements closely held and not to inform the team working on the Flynn investigation so that they would not be influenced by the President’s request. Comey also promptly met with the Attorney General to ask him not to be left alone with the President again, an account verified by Sessions, FBI Chief of Staff James Rybicki, and Jody Hunt, who was then the Attorney General’s chief of staff.

A second question is whether the President’s statements, which were not phrased as a direct order to Comey, could impede or interfere with the FBI’s investigation of Flynn. While the President said he “hope[d]” Comey could “let[] Flynn go,” rather than affirmatively directing him to do so, the circumstances of the conversation show that the President was asking Comey to close the FBI’s investigation into Flynn. First, the President arranged the meeting with Comey so that they would be alone and purposely excluded the Attorney General, which suggests that the President meant to make a request to Comey that he did not want anyone else to hear. Second, because the President is the head of the Executive Branch, when he says that he “hopes” a subordinate will do something, it is reasonable to expect that the subordinate will do what the President wants. Indeed, the President repeated a version of “let this go” three times, and Comey

271 Rybicki 11/21/18 302, at 4; McCabe 8/17/17 302, at 13-14.

272 See Priebus 10/13/17 302, at 18; Sessions 1/17/18 302, at 6.
testified that he understood the President’s statements as a directive, which is corroborated by the way Comey reacted at the time.

b. Nexus to a proceeding. To establish a nexus to a proceeding, it would be necessary to show that the President could reasonably foresee and actually contemplated that the investigation of Flynn was likely to lead to a grand jury investigation or prosecution.

At the time of the President’s one-on-one meeting with Comey, no grand jury subpoenas had been issued as part of the FBI’s investigation into Flynn. But Flynn’s lies to the FBI violated federal criminal law, and resulted in Flynn’s prosecution for violating 18 U.S.C. § 1001. By the time the President spoke to Comey about Flynn, DOJ officials had informed McGahn, who informed the President, that Flynn’s statements to senior White House officials about his contacts with Kislyak were not true and that Flynn had told the same version of events to the FBI. McGahn also informed the President that Flynn’s conduct could violate 18 U.S.C. § 1001. After the Vice President and senior White House officials reviewed the underlying information about Flynn’s calls on February 10, 2017, they believed that Flynn could not have forgotten his conversations with Kislyak and concluded that he had been lying. In addition, the President’s instruction to the FBI Director to “let[ ] Flynn go” suggests his awareness that Flynn could face criminal exposure for his conduct and was at risk of prosecution.

c. Intent. As part of our investigation, we examined whether the President had a personal stake in the outcome of an investigation into Flynn—for example, whether the President was aware of Flynn’s communications with Kislyak close in time to when they occurred, such that the President knew that Flynn had lied to senior White House officials and that those lies had been passed on to the public. Some evidence suggests that the President knew about the existence and content of Flynn’s calls when they occurred, but the evidence is inconclusive and could not be relied upon to establish the President’s knowledge. In advance of Flynn’s initial call with Kislyak, the President attended a meeting where the sanctions were discussed and an advisor may have mentioned that Flynn was scheduled to talk to Kislyak. Flynn told McFarland about the substance of his calls with Kislyak and said they may have made a difference in Russia’s response, and Flynn recalled talking to Bannon in early January 2017 about how they had successfully “stopped the train on Russia’s response” to the sanctions. It would have been reasonable for Flynn to have wanted the President to know of his communications with Kislyak because Kislyak told Flynn his request had been received at the highest levels in Russia and that Russia had chosen not to retaliate in response to the request, and the President was pleased by the Russian response, calling it a “[g]reat move.” And the President never said publicly or internally that Flynn had lied to him about the calls with Kislyak.

But McFarland did not recall providing the President-Elect with Flynn’s read-out of his calls with Kislyak, and Flynn does not have a specific recollection of telling the President-Elect directly about the calls. Bannon also said he did not recall hearing about the calls from Flynn. And in February 2017, the President asked Flynn what was discussed on the calls and whether he had lied to the Vice President, suggesting that he did not already know. Our investigation accordingly did not produce evidence that established that the President knew about Flynn’s discussions of sanctions before the Department of Justice notified the White House of those discussions in late January 2017. The evidence also does not establish that Flynn otherwise
possessed information damaging to the President that would give the President a personal incentive to end the FBI’s inquiry into Flynn’s conduct.

Evidence does establish that the President connected the Flynn investigation to the FBI’s broader Russia investigation and that he believed, as he told Christie, that terminating Flynn would end “the whole Russia thing.” Flynn’s firing occurred at a time when the media and Congress were raising questions about Russia’s interference in the election and whether members of the President’s campaign had colluded with Russia. Multiple witnesses recalled that the President viewed the Russia investigations as a challenge to the legitimacy of his election. The President paid careful attention to negative coverage of Flynn and reacted with annoyance and anger when the story broke disclosing that Flynn had discussed sanctions with Kislyak. Just hours before meeting one-on-one with Comey, the President told Christie that firing Flynn would put an end to the Russia inquiries. And after Christie pushed back, telling the President that firing Flynn would not end the Russia investigation, the President asked Christie to reach out to Comey and convey that the President liked him and he was part of “the team.” That afternoon, the President cleared the room and asked Comey to “let[] Flynn go.”

We also sought evidence relevant to assessing whether the President’s direction to Comey was motivated by sympathy towards Flynn. In public statements the President repeatedly described Flynn as a good person who had been harmed by the Russia investigation, and the President directed advisors to reach out to Flynn to tell him the President “care[d]” about him and felt bad for him. At the same time, multiple senior advisors, including Bannon, Priebus, and Hicks, said that the President had become unhappy with Flynn well before Flynn was forced to resign and that the President was frequently irritated with Flynn. Priebus said he believed the President’s initial reluctance to fire Flynn stemmed not from personal regard, but from concern about the negative press that would be generated by firing the National Security Advisor so early in the Administration. And Priebus indicated that the President’s post-firing expressions of support for Flynn were motivated by the President’s desire to keep Flynn from saying negative things about him.

The way in which the President communicated the request to Comey also is relevant to understanding the President’s intent. When the President first learned about the FBI investigation into Flynn, he told McGahn, Bannon, and Priebus not to discuss the matter with anyone else in the White House. The next day, the President invited Comey for a one-on-one dinner against the advice of an aide who recommended that other White House officials also attend. At the dinner, the President asked Comey for “loyalty” and, at a different point in the conversation, mentioned that Flynn had judgment issues. When the President met with Comey the day after Flynn’s termination—shortly after being told by Christie that firing Flynn would not end the Russia investigation—the President cleared the room, even excluding the Attorney General, so that he could again speak to Comey alone. The President’s decision to meet one-on-one with Comey contravened the advice of the White House Counsel that the President should not communicate directly with the Department of Justice to avoid any appearance of interfering in law enforcement activities. And the President later denied that he cleared the room and asked Comey to “let[] Flynn go”—a denial that would have been unnecessary if he believed his request was a proper exercise of prosecutorial discretion.
Finally, the President’s effort to have McFarland write an internal email denying that the
President had directed Flynn to discuss sanctions with Kislyak highlights the President’s concern
about being associated with Flynn’s conduct. The evidence does not establish that the President
was trying to have McFarland lie. The President’s request, however, was sufficiently irregular
that McFarland—who did not know the full extent of Flynn’s communications with the President
and thus could not make the representation the President wanted—felt the need to draft an internal
memorandum documenting the President’s request, and Eisenberg was concerned that the request
would look like a quid pro quo in exchange for an ambassadorship.

C. The President’s Reaction to Public Confirmation of the FBI’s Russia
Investigation

Overview

In early March 2017, the President learned that Sessions was considering recusing from
the Russia investigation and tried to prevent the recusal. After Sessions announced his recusal on
March 2, the President expressed anger at Sessions for the decision and then privately asked
Sessions to “unrecuse.” On March 20, 2017, Comey publicly disclosed the existence of the FBI’s
Russia investigation. In the days that followed, the President contacted Comey and other
intelligence agency leaders and asked them to push back publicly on the suggestion that the
President had any connection to the Russian election-interference effort in order to “lift the cloud”
of the ongoing investigation.

Evidence

1. Attorney General Sessions Recuses From the Russia Investigation

In late February 2017, the Department of Justice began an internal analysis of whether
Sessions should recuse from the Russia investigation based on his role in the 2016 Trump
Campaign. On March 1, 2017, the press reported that, in his January confirmation hearing to
become Attorney General, Senator Sessions had not disclosed two meetings he had with Russian
Ambassador Kislyak before the presidential election, leading to congressional calls for Sessions
to recuse or for a special counsel to investigate Russia’s interference in the presidential election.

Also on March 1, the President called Comey and said he wanted to check in and see how
Comey was doing. According to an email Comey sent to his chief of staff after the call, the
President “talked about Sessions a bit,” said that he had heard Comey was “doing great,” and said
that he hoped Comey would come by to say hello when he was at the White House.

273 Sessions 1:17/18 302, at 1; Hunt 2/1/18 302, at 3.
274 E.g., Adam Entous et al., Sessions met with Russian envoy twice last year, encounters he later
275 3/1/17 Email, Comey to Rybicki; SCR012b_000030 (President’s Daily Diary, 3/1/17, reflecting
call with Comey at 11:55 am.)
276 3/1/17 Email, Comey to Rybicki; see Hearing on Russian Election Interference Before the
Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (CQ Cong. Transcripts, at 86) (testimony