K. The President’s Conduct Involving Michael Cohen

Overview

The President’s conduct involving Michael Cohen spans the full period of our investigation. During the campaign, Cohen pursued the Trump Tower Moscow project on behalf of the Trump Organization. Cohen briefed candidate Trump on the project numerous times, including discussing whether Trump should travel to Russia to advance the deal. After the media began questioning Trump’s connections to Russia, Cohen promoted a “party line” that publicly distanced Trump from Russia and asserted he had no business there. Cohen continued to adhere to that party line in 2017, when Congress asked him to provide documents and testimony in its Russia investigation. In an attempt to minimize the President’s connections to Russia, Cohen submitted a letter to Congress falsely stating that he only briefed Trump on the Trump Tower Moscow project three times, that he did not consider asking Trump to travel to Russia, that Cohen had not received a response to an outreach he made to the Russian government, and that the project ended in January 2016, before the first Republican caucus or primary. While working on the congressional statement, Cohen had extensive discussions with the President’s personal counsel, who, according to Cohen, said that Cohen should not contradict the President and should keep the statement short and “tight.” After the FBI searched Cohen’s home and office in April 2018, the President publicly asserted that Cohen would not “flip” and privately passed messages of support to him. Cohen also discussed pardons with the President’s personal counsel and believed that if he stayed on message, he would get a pardon or the President would do “something else” to make the investigation end. But after Cohen began cooperating with the government in July 2018, the President publicly criticized him, called him a “rat,” and suggested his family members had committed crimes.

Evidence

1. Candidate Trump’s Awareness of and Involvement in the Trump Tower Moscow Project

The President’s interactions with Cohen as a witness took place against the background of the President’s involvement in the Trump Tower Moscow project.

As described in detail in Volume I, Section IV.A.1, supra, from September 2015 until at least June 2016, the Trump Organization pursued a Trump Tower Moscow project in Russia, with negotiations conducted by Cohen, then-executive vice president of the Trump Organization and special counsel to Donald J. Trump.909 The Trump Organization had previously and

909 In August 2018 and November 2018, Cohen pleaded guilty to multiple crimes of deception, including making false statements to Congress about the Trump Tower Moscow project, as described later in this section. When Cohen first met with investigators from this Office, he repeated the same lies he told Congress about the Trump Tower Moscow project. Cohen 8/7/18 302, at 12-17. But after Cohen pleaded guilty to offenses in the Southern District of New York on August 21, 2018, he met with investigators again and corrected the record. The Office found Cohen’s testimony in these subsequent proffer sessions to be consistent with and corroborated by other information obtained in the course of the Office’s investigation. The Office’s sentencing submission in Cohen’s criminal case stated: “Starting with his second meeting with the [Special Counsel’s Office] in September 2018, the defendant has accepted responsibility not only for
unsuccessfully pursued a building project in Moscow. According to Cohen, in approximately September 2015 he obtained internal approval from Trump to negotiate on behalf of the Trump Organization to have a Russian corporation build a tower in Moscow that licensed the Trump name and brand. Cohen thereafter had numerous brief conversations with Trump about the project. Cohen recalled that Trump wanted to be updated on any developments with Trump Tower Moscow and on several occasions brought the project up with Cohen to ask what was happening on it. Cohen also discussed the project on multiple occasions with Donald Trump Jr. and Ivanka Trump.

In the fall of 2015, Trump signed a Letter of Intent for the project that specified highly lucrative terms for the Trump Organization. In December 2015, Felix Sater, who was handling negotiations between Cohen and the Russian corporation, asked Cohen for a copy of his and Trump’s passports to facilitate travel to Russia to meet with government officials and possible financing partners. Cohen recalled discussing the trip with Trump and requesting a copy of Trump’s passport from Trump’s personal secretary, Rhona Graff.

By January 2016, Cohen had become frustrated that Sater had not set up a meeting with Russian government officials, so Cohen reached out directly by email to the office of Dmitry

his false statements concerning the [Trump Tower] Moscow Project, but also his broader efforts through public statements and testimony before Congress to minimize his role in, and what he knew about, contacts between the [Trump Organization] and Russian interests during the course of the campaign. The information provided by Cohen about the [Trump Tower] Moscow Project in these proffer sessions is consistent with and corroborated by other information obtained in the course of the [Special Counsel’s Office’s] investigation. The defendant, without prompting by the [Special Counsel’s Office], also corrected other false and misleading statements that he had made concerning his outreach to and contacts with Russian officials during the course of the campaign.” Gov’t Sentencing Submission at 4, United States v. Michael Cohen, 1:18-cr-850 (S.D.N.Y. Dec. 7, 2018), Doc. 14. At Cohen’s sentencing, our Office further explained that Cohen had “provided valuable information while taking care and being careful to note what he knows and what he doesn’t know.” Transcript at 19, United States v. Michael Cohen, 1:18-cr-850 (S.D.N.Y. Dec. 12, 2018), Doc. 17 (Cohen 12/12/18 Transcript).

See Volume I, Section IV.A.1, supra (noting that starting in at least 2013, several employees of the Trump Organization, including then-president of the organization Donald J. Trump, pursued a Trump Tower Moscow deal with several Russian counterparties).

Cohen 9/12/18 302, at 1-4; Cohen 8/7/18 302, at 15.

Cohen 9/12/18 302, at 2, 4.

Cohen 9/12/18 302, at 4.

Cohen 9/12/18 302, at 4, 10.

MDC-H-00616-25 (10/28/15 Letter of Intent, signed by Donald J. Trump, Trump Acquisition, LLC and Andrey Rozov, I.C. Expert Investment Company); Cohen 9/12/18 302, at 3; Written Responses of Donald J. Trump (Nov. 20, 2018), at 15 (Response to Question III, Parts (a) through (g)).

MDC-H-000600 (12/19/15 Email, Sater to Cohen).

Cohen 9/12/18 302, at 5.
Peskov, who was Putin’s deputy chief of staff and press secretary. On January 20, 2016, Cohen received an email response from Elena Poliakova, Peskov’s personal assistant, and phone records confirm that they then spoke for approximately twenty minutes, during which Cohen described the Trump Tower Moscow project and requested assistance in moving the project forward. Cohen recalled briefing candidate Trump about the call soon afterwards. Cohen told Trump he spoke with a woman he identified as “someone from the Kremlin,” and Cohen reported that she was very professional and asked detailed questions about the project. Cohen recalled telling Trump he wished the Trump Organization had assistants who were as competent as the woman from the Kremlin.

Cohen thought his phone call renewed interest in the project. The day after Cohen’s call with Poliakova, Sater texted Cohen, asking him to “[c]all me when you have a few minutes to chat ... It’s about Putin they called today.” Sater told Cohen that the Russian government liked the project and on January 25, 2016, sent an invitation for Cohen to visit Moscow “for a working visit.” After the outreach from Sater, Cohen recalled telling Trump that he was waiting to hear back on moving the project forward.

After January 2016, Cohen continued to have conversations with Sater about Trump Tower Moscow and continued to keep candidate Trump updated about those discussions and the status of the project. Cohen recalled that he and Trump wanted Trump Tower Moscow to succeed and that Trump never discouraged him from working on the project because of the campaign. In March or April 2016, Trump asked Cohen if anything was happening in Russia. Cohen also

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918 See FS00004 (12/30/15 Text Message, Cohen to Sater); TRUMPORG_MC_000233 (1/11/16 Email, Cohen to pr_peskova@prpress.gov.ru); MDC-H-000690 (1/14/16 Email, Cohen to info@prpress.gov.ru); TRUMPORG_MC_000235 (1/16/16 Email, Cohen to pr_peskova@prpress.gov.ru).

919 1/20/16 Email, Poliakova to Cohen; Call Records of Michael Cohen. (Showing a 22-minute call on January 20, 2016, between Cohen and the number Poliakova provided in her email); Cohen 9/12/18 302, at 2-3. After the call, Cohen saved Poliakova’s contact information in his Trump Organization Outlook contact list. 1/20/16 Cohen Microsoft Outlook Entry (6:22 a.m.).

920 Cohen 11/20/18 302, at 5.

921 Cohen 11/20/18 302, at 5-6; Cohen 11/12/18 302, at 4.

922 Cohen 11/20/18 302, at 5.

923 Cohen 9/12/18 302, at 5.

924 FS00011 (1/21/16 Text Messages, Sater & Cohen).

925 Cohen 9/12/18 302, at 5; 1/25/16 Email, Sater to Cohen (attachment).

926 Cohen 11/20/18 302, at 5.


928 Cohen 9/12/18 302, at 6.

929 Cohen 9/12/18 302, at 4.
recalled briefing Donald Trump Jr. in the spring—a conversation that Cohen said was not “idle chit chat” because Trump Tower Moscow was potentially a $1 billion deal.930

Cohen recalled that around May 2016, he again raised with candidate Trump the possibility of a trip to Russia to advance the Trump Tower Moscow project.931 At that time, Cohen had received several texts from Sater seeking to arrange dates for such a trip.932 On May 4, 2016, Sater wrote to Cohen, “I had a chat with Moscow. ASSUMING the trip does happen the question is before or after the convention. . . . Obviously the premeeting trip (you only) can happen anytime you want but the 2 big guys [is] the question. I said I would confirm and revert.”933 Cohen responded, “My trip before Cleveland. Trump once he becomes the nominee after the convention.”934 On May 5, 2016, Sater followed up with a text that Cohen thought he probably read to Trump:

Peskov would like to invite you as his guest to the St. Petersburg Forum which is Russia’s Davos it’s June 16-19. He wants to meet there with you and possibly introduce you to either Putin or Medvedev. . . . This is perfect. The entire business class of Russia will be there as well. He said anything you want to discuss including dates and subjects are on the table to discuss.935

Cohen recalled discussing the invitation to the St. Petersburg Economic Forum with candidate Trump and saying that Putin or Russian Prime Minister Dmitry Medvedev might be there.936 Cohen remembered that Trump said that he would be willing to travel to Russia if Cohen could “lock and load” on the deal.937 In June 2016, Cohen decided not to attend the St. Petersburg Economic Forum because Sater had not obtained a formal invitation for Cohen from Peskov.938 Cohen said he had a quick conversation with Trump at that time but did not tell him that the project was over because he did not want Trump to complain that the deal was on-again-off-again if it were revived.939

During the summer of 2016, Cohen recalled that candidate Trump publicly claimed that he had nothing to do with Russia and then shortly afterwards privately checked with Cohen about the status of the Trump Tower Moscow project, which Cohen found “interesting.”940 At some point

930 Cohen 9/12/18 302, at 10.
931 Cohen 9/12/18 302, at 7.
932 Cohen 9/12/18 302, at 7.
935 FS00016-17 (5/5/16 Text Messages, Sater & Cohen).
936 Cohen 9/12/18 302, at 7.
937 Cohen 9/12/18 302, at 7.
938 Cohen 9/12/18 302, at 7-8.
939 Cohen 9/12/18 302, at 8.
940 Cohen 3/19/19 302, at 2.
that summer, Cohen recalled having a brief conversation with Trump in which Cohen said the Trump Tower Moscow project was going nowhere because the Russian development company had not secured a piece of property for the project.\textsuperscript{941} Trump said that was “too bad,” and Cohen did not recall talking with Trump about the project after that.\textsuperscript{942} Cohen said that at no time during the campaign did Trump tell him not to pursue the project or that the project should be abandoned.\textsuperscript{943}

2. Cohen Determines to Adhere to a “Party Line” Distancing Candidate Trump From Russia

As previously discussed, see Volume II, Section II.A, supra, when questions about possible Russian support for candidate Trump emerged during the 2016 presidential campaign, Trump denied having any personal, financial, or business connection to Russia, which Cohen described as the “party line” or “message” to follow for Trump and his senior advisors.\textsuperscript{944}

After the election, the Trump Organization sought to formally close out certain deals in advance of the inauguration.\textsuperscript{945} Cohen recalled that Trump Tower Moscow was on the list of deals to be closed out.\textsuperscript{946} In approximately January 2017, Cohen began receiving inquiries from the media about Trump Tower Moscow, and he recalled speaking to the President-Elect when those inquiries came in.\textsuperscript{947} Cohen was concerned that truthful answers about the Trump Tower Moscow project might not be consistent with the “message” that the President-Elect had no relationship with Russia.\textsuperscript{948}

In an effort to “stay on message,” Cohen told a New York Times reporter that the Trump Tower Moscow deal was not feasible and had ended in January 2016.\textsuperscript{949} Cohen recalled that this was part of a “script” or talking points he had developed with President-Elect Trump and others to

\textsuperscript{941} Cohen 3/19/19 302, at 2. Cohen could not recall the precise timing of this conversation, but said he thought it occurred in June or July 2016. Cohen recalled that the conversation happened at some point after candidate Trump was publicly stating that he had nothing to do with Russia. Cohen 3/19/19 302, at 2.

\textsuperscript{942} Cohen 3/19/19 302, at 2.

\textsuperscript{943} Cohen 3/19/19 302, at 2.

\textsuperscript{944} Cohen 11/20/18 302, at 1; Cohen 9/18/18 302, at 3, 5; Cohen 9/12/18 302, at 9.

\textsuperscript{945} Cohen 9/18/18 302, at 1-2; see also Rtskhiladze 4/4/18 302, at 8-9.

\textsuperscript{946} Cohen 9/18/18 302, at 1-2.

\textsuperscript{947} Cohen 9/18/18 302, at 3.

\textsuperscript{948} Cohen 11/20/18 302, at 4.

\textsuperscript{949} Cohen 9/18/18 302, at 5. The article was published on February 19, 2017, and reported that Sater and Cohen had been working on plan for a Trump Tower Moscow “as recently as the fall of 2015” but had come to a halt because of the presidential campaign. Consistent with Cohen’s intended party line message, the article stated, “Cohen said the Trump Organization had received a letter of intent for a project in Moscow from a Russian real estate developer at that time but determined that the project was not feasible.” Megan Twhey & Scott Shane, A Back-Channel Plan for Ukraine and Russia, Courtesy of Trump Associates, New York Times (Feb. 19, 2017).
dismiss the idea of a substantial connection between Trump and Russia. Cohen said that he discussed the talking points with Trump but that he did not explicitly tell Trump he thought they were untrue because Trump already knew they were untrue. Cohen thought it was important to say the deal was done in January 2016, rather than acknowledge that talks continued in May and June 2016, because it limited the period when candidate Trump could be alleged to have a relationship with Russia to an early point in the campaign, before Trump had become the party’s presumptive nominee.

3. Cohen Submits False Statements to Congress Minimizing the Trump Tower Moscow Project in Accordance with the Party Line

In early May 2017, Cohen received requests from Congress to provide testimony and documents in connection with congressional investigations of Russian interference in the 2016 election. At that time, Cohen understood Congress’s interest in him to be focused on the allegations in the Steele report concerning a meeting Cohen allegedly had with Russian officials in Prague during the campaign. Cohen had never traveled to Prague and was not concerned about those allegations, which he believed were provably false. On May 18, 2017, Cohen met with the President to discuss the request from Congress, and the President instructed Cohen that he should cooperate because there was nothing there.

Cohen eventually entered into a joint defense agreement (JDA) with the President and other individuals who were part of the Russia investigation. In the months leading up to his congressional testimony, Cohen frequently spoke with the President’s personal counsel.

950 Cohen 9/18/18 302, at 5-6.
951 Cohen 9/18/18 302, at 6.
952 Cohen 9/12/18 302, at 10.
956 Cohen 11/12/18 302, at 2; Cohen 11/20/19 302, at 3.
957 Cohen 11/12/18 302, at 2.
958 Cohen 11/12/18 302, at 2-3; Cohen 11/20/18, at 2-6. Cohen told investigators about his conversations with the President’s personal counsel after waiving any privilege of his own and after this Office advised his counsel not to provide any communications that would be covered by any other privilege, including communications protected by a joint defense or common interest privilege. As a result, most of what Cohen told us about his conversations with the President’s personal counsel concerned what Cohen had communicated to the President’s personal counsel, and not what was said in response. Cohen described certain statements made by the President’s personal counsel, however, that are set forth in this section. Cohen and his counsel were better positioned than this Office to evaluate whether any privilege protected those statements because they had knowledge of the scope of their joint defense agreement and access to privileged communications that may have provided context for evaluating the statements they shared. After interviewing Cohen about these matters, we asked the President’s personal counsel if he wished to provide information to us about his conversations with Cohen related to Cohen’s congressional testimony about
said that in those conversations the President’s personal counsel would sometimes say that he had just been with the President. Cohen recalled that the President’s personal counsel told him the JDA was working well together and assured him that there was nothing there and if they stayed on message the investigations would come to an end soon. At that time, Cohen’s legal bills were being paid by the Trump Organization, and Cohen was told not to worry because the investigations would be over by summer or fall of 2017. Cohen said that the President’s personal counsel also conveyed that, as part of the JDA, Cohen was protected, which he would not be if he “went rogue.” Cohen recalled that the President’s personal counsel reminded him that “the President loves you” and told him that if he stayed on message, the President had his back.

In August 2017, Cohen began drafting a statement about Trump Tower Moscow to submit to Congress along with his document production. The final version of the statement contained several false statements about the project. First, although the Trump Organization continued to pursue the project until at least June 2016, the statement said, “The proposal was under consideration at the Trump Organization from September 2015 until the end of January 2016. By the end of January 2016, I determined that the proposal was not feasible for a variety of business reasons and should not be pursued further. Based on my business determinations, the Trump Organization abandoned the proposal.” Second, although Cohen and candidate Trump had discussed possible travel to Russia by Trump to pursue the venture, the statement said, “Despite overtures by Mr. Sater, I never considered asking Mr. Trump to travel to Russia in connection with this proposal. I told Mr. Sater that Mr. Trump would not travel to Russia unless there was a definitive agreement in place.”

Trump Tower Moscow. The President’s personal counsel declined and, through his own counsel, indicated that he could not disaggregate information he had obtained from Cohen from information he had obtained from other parties in the JDA. In view of the admonition this Office gave to Cohen’s counsel to withhold communications that could be covered by privilege, the President’s personal counsel’s uncertainty about the provenance of his own knowledge, the burden on a privilege holder to establish the elements to support a claim of privilege, and the substance of the statements themselves, we have included relevant statements Cohen provided in this report. If the statements were to be used in a context beyond this report, further analysis could be warranted.

962 Cohen 9/18/18 302, at 8; Cohen 11/20/18 302, at 3-4.
965 P-SCO-000003680 and P-SCO-0000003687 (8/16/17 Email and Attachment, Michael Cohen’s Counsel to Cohen). Cohen said it was not his idea to write a letter to Congress about Trump Tower Moscow. Cohen 9/18/18 302, at 7.
966 P-SCO-00009478 (Statement of Michael D. Cohen, Esq. (Aug. 28, 2017)).
967 P-SCO-00009478 (Statement of Michael D. Cohen, Esq. (Aug. 28, 2017)).
968 P-SCO-00009478 (Statement of Michael D. Cohen, Esq. (Aug. 28, 2017)).
of the project and had numerous conversations about it, the statement said, "Mr. Trump was never in contact with anyone about this proposal other than me on three occasions, including signing a non-binding letter of intent in 2015." Fourth, although Cohen’s outreach to Peskov in January 2016 had resulted in a lengthy phone call with a representative from the Kremlin, the statement said that Cohen did "not recall any response to my email [to Peskov], nor any other contacts by me with Mr. Peskov or other Russian government officials about the proposal."  

Cohen’s statement was circulated in advance to, and edited by, members of the JDA. Before the statement was finalized, early drafts contained a sentence stating, “The building project led me to make limited contacts with Russian government officials.” In the final version of the statement, that line was deleted. Cohen thought he was told that it was a decision of the JDA to take out that sentence, and he did not push back on the deletion. Cohen recalled that he told the President’s personal counsel that he would not contest a decision of the JDA.  

Cohen also recalled that in drafting his statement for Congress, he spoke with the President’s personal counsel about a different issue that connected candidate Trump to Russia: Cohen’s efforts to see: a meeting between Trump and Putin in New York during the 2015 United Nations General Assembly. In September 2015, Cohen had suggested the meeting to Trump, who told Cohen to reach out to Putin’s office about it. Cohen spoke and emailed with a Russian official about a possible meeting, and recalled that Trump asked him multiple times for updates on the proposed meeting with Putin. When Cohen called the Russian official a second time, she told him it would not follow proper protocol for Putin to meet with Trump, and Cohen relayed that...
message to Trump. Cohen anticipated he might be asked questions about the proposed Trump-Putin meeting when he testified before Congress because he had talked about the potential meeting on Sean Hannity’s radio show. Cohen recalled explaining to the President’s personal counsel the “whole story” of the attempt to set up a meeting between Trump and Putin and Trump’s role in it. Cohen recalled that he and the President’s personal counsel talked about keeping Trump out of the narrative, and the President’s personal counsel told Cohen the story was not relevant and should not be included in his statement to Congress.

Cohen said that his “agenda” in submitting the statement to Congress with false representations about the Trump Tower Moscow project was to minimize links between the project and the President, give the false impression that the project had ended before the first presidential primaries, and shut down further inquiry into Trump Tower Moscow, with the aim of limiting the ongoing Russia investigations. Cohen said he wanted to protect the President and be loyal to him by not contradicting anything the President had said. Cohen recalled he was concerned that if he told the truth about getting a response from the Kremlin or speaking to candidate Trump about travel to Russia to pursue the project, he would contradict the message that no connection existed between Trump and Russia, and he rationalized his decision to provide false testimony because the deal never happened. He was not concerned that the story would be contradicted by individuals who knew it was false because he was sticking to the party line adhered to by the whole group. Cohen wanted the support of the President and the White House, and he believed that following the party line would help put an end to the Special Counsel and congressional investigations.

Between August 18, 2017, when the statement was in an initial draft stage, and August 28, 2017, when the statement was submitted to Congress, phone records reflect that Cohen spoke with the President’s personal counsel almost daily. On August 27, 2017, the day before Cohen

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979 Cohen 11/12/18 302, at 5.
980 Cohen 9/18/18 302, at 11.
981 Cohen 3/19/19 302, at 2.
982 Cohen 3/19/19 302, at 2; see Cohen 9/18/18 302, at 11 (recalling that he was told that if he stayed on message and kept the President out of the narrative, the President would have his back).
987 Cohen 9/12/18 302, at 8-9.
988 Cohen 11/12/18 302, at 2-3; Cohen 11/20/18 302, at 5; Call Records of Michael Cohen (Reflecting three contacts on August 18, 2017 (24 seconds; 5 minutes 25 seconds; and 10 minutes 58 seconds); two contacts on August 19 (23 seconds and 24 minutes 26 seconds); three contacts on August 23 (8 seconds; 20 minutes 33 seconds; and 5 minutes 8 seconds); one contact on August 24 (11 minutes 59 seconds); 14 contacts on August 27 (28 seconds; 4 minutes 37 seconds; 1 minute 16 seconds; 1 minutes 35
submitted the statement to Congress, Cohen and the President’s personal counsel had numerous contacts by phone, including calls lasting three, four, six, eleven, and eighteen minutes.\textsuperscript{989} Cohen recalled telling the President’s personal counsel, who did not have first-hand knowledge of the project, that there was more detail on Trump Tower Moscow that was not in the statement, including that there were more communications with Russia and more communications with candidate Trump than the statement reflected.\textsuperscript{990} Cohen stated that the President’s personal counsel responded that it was not necessary to elaborate or include those details because the project did not progress and that Cohen should keep his statement short and “tight” and the matter would soon come to an end.\textsuperscript{991} Cohen recalled that the President’s personal counsel said “his client” appreciated Cohen, that Cohen should stay on message and not contradict the President, that there was no need to muddy the water, and that it was time to move on.\textsuperscript{992} Cohen said he agreed because it was what he was expected to do.\textsuperscript{993} After Cohen later pleaded guilty to making false statements to Congress about the Trump Tower Moscow project, this Office sought to speak with the President’s personal counsel about these conversations with Cohen, but counsel declined, citing potential privilege concerns.\textsuperscript{994}

At the same time that Cohen finalized his written submission to Congress, he served as a source for a Washington Post story published on August 27, 2017, that reported in depth for the first time that the Trump Organization was “pursuing a plan to develop a massive Trump Tower in Moscow” at the same time as candidate Trump was “running for president in late 2015 and early 2016.”\textsuperscript{995} The article reported that “the project was abandoned at the end of January 2016, just before the presidential primaries began, several people familiar with the proposal said.”\textsuperscript{996} Cohen recalled that in speaking to the Post, he held to the false story that negotiations for the deal ceased in January 2016.\textsuperscript{997}

\textsuperscript{989} Cohen 11/20/18 302, at 5; Call Records of Michael Cohen. (Reflecting 14 contacts on August 27, 2017 (28 seconds; 4 minutes 37 seconds; 1 minute 16 seconds; 1 minute 35 seconds; 6 minutes 16 seconds; 1 minutes 10 seconds; 3 minutes 5 seconds; 18 minutes 55 seconds; 4 minutes 56 seconds; 1 minute 6 seconds; 8 seconds; 3 seconds; 2 seconds; 2 seconds)).

\textsuperscript{990} Cohen 11/20/18 302, at 5.

\textsuperscript{991} Cohen 11/20/18 302, at 5. Cohen also vaguely recalled telling the President’s personal counsel that he spoke with a woman from the Kremlin and that the President’s personal counsel responded to the effect of “so what?” because the deal never happened. Cohen 11/20/18 302, at 5.

\textsuperscript{992} Cohen 11/20/18 302, at 5.

\textsuperscript{993} Cohen 11/20/18 302, at 5.

\textsuperscript{994} 2/8/19 email, Counsel for personal counsel to the President to Special Counsel’s Office.

\textsuperscript{995} Cohen 9/18/18 302, at 7; Carol D. Leonnig et al., Trump’s business sought deal on a Trump Tower in Moscow while he ran for president, Washington Post (Aug. 27, 2017).

\textsuperscript{996} Carol D. Leonnig et al., Trump’s business sought deal on a Trump Tower in Moscow while he ran for president, Washington Post (Aug. 27, 2017).

\textsuperscript{997} Cohen 9/18/18 302, at 7.
On August 28, 2017, Cohen submitted his statement about the Trump Tower Moscow project to Congress. Cohen did not recall talking to the President about the specifics of what the statement said or what Cohen would later testify to about Trump Tower Moscow. He recalled speaking to the President more generally about how he planned to stay on message in his testimony. On September 19, 2017, in anticipation of his impending testimony, Cohen orchestrated the public release of his opening remarks to Congress, which criticized the allegations in the Steele material and claimed that the Trump Tower Moscow project “was terminated in January of 2016; which occurred before the Iowa caucus and months before the very first primary.” Cohen said the release of his opening remarks was intended to shape the narrative and let other people who might be witnesses know what Cohen was saying so they could follow the same message. Cohen said his decision was meant to mirror Jared Kushner’s decision to release a statement in advance of Kushner’s congressional testimony, which the President’s personal counsel had told Cohen the President liked. Cohen recalled that on September 20, 2017, after Cohen’s opening remarks had been printed by the media, the President’s personal counsel told him that the President was pleased with the Trump Tower Moscow statement that had gone out.

On October 24 and 25, 2017, Cohen testified before Congress and repeated the false statements he had included in his written statement about Trump Tower Moscow. Phone records show that Cohen spoke with the President’s personal counsel immediately after his testimony on both days.

4. The President Sends Messages of Support to Cohen

In January 2018, the media reported that Cohen had arranged a $130,000 payment during the campaign to prevent a woman from publicly discussing an alleged sexual encounter she had

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998 P-SCO-000009477 - 9478 (8/28/17 Letter and Attachment, Cohen to SSCI).
999 Cohen 11/12/18 302, at 2; Cohen 9/12/18 302, at 9.
1000 Cohen 9/12/18 302, at 9.
1001 Cohen 9/18/18 302, at 7; see, e.g., READ: Michael Cohen’s statement to the Senate intelligence committee, CNN (Sept. 19, 2017).
1002 Cohen 9/18/18 302, at 7.
1003 Cohen 9/18/18 302, at 7; Cohen 11/20/18 302, at 6.
1004 Cohen 11/20/18 302, at 6. Phone records show that the President’s personal counsel called Cohen on the morning of September 20, 2017, and they spoke for approximately 11 minutes, and that they had two more contacts that day, one of which lasted approximately 18 minutes. Call Records of Michael Cohen. (Reflecting three contacts on September 20, 2017, with calls lasting for 11 minutes 3 seconds; 2 seconds; and 18 minutes 38 seconds).
1006 Call Records of Michael Cohen. (Reflecting two contacts on October 24, 2017 (12 minutes 8 seconds and 8 minutes 27 seconds) and three contacts on October 25, 2017 (1 second; 4 minutes 6 seconds; and 6 minutes 6 seconds)).
with the President before he ran for office. This Office did not investigate Cohen’s campaign-period payments to women. However, those events, as described here, are potentially relevant to the President’s and his personal counsel’s interactions with Cohen as a witness who later began to cooperate with the government.

On February 13, 2018, Cohen released a statement to news organizations that stated, “In a private transaction in 2016, I used my own personal funds to facilitate a payment of $130,000 to [the woman]. Neither the Trump Organization nor the Trump campaign was a party to the transaction with [the woman], and neither reimbursed me for the payment, either directly or indirectly.” In congressional testimony on February 27, 2019, Cohen testified that he had discussed what to say about the payment with the President and that the President had directed Cohen to say that the President “was not knowledgeable . . . of [Cohen’s] actions” in making the payment. On February 19, 2018, the day after the New York Times wrote a detailed story attributing the payment to Cohen and describing Cohen as the President’s “fixer,” Cohen received a text message from the President’s personal counsel that stated, “Client says thanks for what you do.”

On April 9, 2018, FBI agents working with the U.S. Attorney’s Office for the Southern District of New York executed search warrants on Cohen’s home, hotel room, and office. That day, the President spoke to reporters and said that he had “just heard that they broke into the office of one of my personal attorneys—a good man.” The President called the searches “a real disgrace” and said, “It’s an attack on our country, in a true sense. It’s an attack on what we all

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1007 See, e.g., Michael Rothfeld & Joe Palazzolo, Trump Lawyer Arranged $130,000 Payment for Adult-Film Star’s Silence, Wall Street Journal (Jan. 12, 2018).

1008 The Office was authorized to investigate Cohen’s establishment and use of Essential Consultants LLC, which Cohen created to facilitate the $130,000 payment during the campaign, based on evidence that the entity received funds from Russian-backed entities. Cohen’s use of Essential Consultants to facilitate the $130,000 payment to the woman during the campaign was part of the Office’s referral of certain Cohen-related matters to the U.S. Attorney’s Office for the Southern District of New York.

1009 See, e.g., Mark Berman, Longtime Trump attorney says he made $130,000 payment to Stormy Daniels with his money, Washington Post (Feb. 14, 2018).

1010 Hearing on Issues Related to Trump Organization Before the House Oversight and Reform Committee, 116th Cong. (Feb. 27, 2019) (CQ Cong. Transcripts, at 147-148) (testimony of Michael Cohen). Toll records show that Cohen was connected to a White House phone number for approximately five minutes on January 19, 2018, and for approximately seven minutes on January 30, 2018, and that Cohen called Melania Trump’s cell phone several times between January 26, 2018, and January 30, 2018. Call Records of Michael Cohen.

1011 2/19/18 Text Message, President’s personal counsel to Cohen; see Jim Rutenberg et al., Tools of Trump’s Fixer: Payouts, Intimidation and the Tabloids, New York Times (Feb. 18, 2018).


1013 Remarks by President Trump Before Meeting with Senior Military Leadership, White House (Apr. 9, 2018).
stand for.” Cohen said that after the searches he was concerned that he was “an open book,” that he did not want issues arising from the payments to women to “come out,” and that his false statements to Congress were “a big concern.”

A few days after the searches, the President called Cohen. According to Cohen, the President said he wanted to “check in” and asked if Cohen was okay, and the President encouraged Cohen to “hang in there” and “stay strong.” Cohen also recalled that following the searches he heard from individuals who were in touch with the President and relayed to Cohen the President’s support for him. Cohen recalled that, a friend of the President’s, reached out to say that he was with “the Boss” in Mar-a-Lago and the President had said “he loves you” and not to worry. Cohen recalled that, a friend of the President’s, told him, “the boss loves you.” And Cohen said that, a friend of the Trump Organization, told him, “everyone knows the boss has your back.”

On or about April 17, 2018, Cohen began speaking with an attorney, Robert Costello, who had a close relationship with Rudolph Giuliani, one of the President’s personal lawyers. Costello told Cohen that he had a “back channel of communication” to Giuliani, and that Giuliani had said the “channel” was “crucial” and “must be maintained.” On April 20, 2018, the New York Times published an article about the President’s relationship with and treatment of Cohen. The President responded with a series of tweets predicting that Cohen would not “flip.”

The New York Times and a third rate reporter . . . are going out of their way to destroy Michael Cohen and his relationship with me in the hope that he will ‘flip.’ They use non-existent ‘sources’ and a drunk/drugged up loser who hates Michael, a fine person with a wonderful family. Michael is a businessman for his own account/lawyer who I have always liked & respected. Most people will flip if the Government lets them out of trouble, even

1014 Remarks by President Trump Before Meeting with Senior Military Leadership, White House (Apr. 9, 2018).
1015 Cohen, 10/17/18 302, at 11.
1016 Cohen 3/19/19 302, at 4.
1017 Cohen 3/19/19 302, at 4.
1018 Cohen 9/12/18 302, at 11.
1019 Cohen 9/12/18 302, at 11.
1020 Cohen 9/12/18 302, at 11.
1021 Cohen 9/12/18 302, at 11.
1022 4/17/18 Email, Citron to Cohen; 4/19/18 Email, Costello to Cohen; MC-SCO-001 (7/7/18 redacted billing statement from Davidoff, Hutch & Citron to Cohen).
1023 4/2/18 Email, Costello to Cohen.
if it means lying or making up stories. Sorry, I don’t see Michael doing that despite the horrible Witch Hunt and the dishonest media.\textsuperscript{1025}

In an email that day to Cohen, Costello wrote that he had spoken with Giuliani.\textsuperscript{1026} Costello told Cohen the conversation was “Very Very Positive[,] You are ‘loved’ . . . they are in our corner . . . Sleep well tonight[,] you have friends in high places.”\textsuperscript{1027}

Cohen said that following these messages he believed he had the support of the White House if he continued to toe the party line, and he determined to stay on message and be part of the team.\textsuperscript{1028} At the time, Cohen’s understood that his legal fees were still being paid by the Trump Organization, which he said was important to him.\textsuperscript{1029} Cohen believed he needed the power of the President to take care of him, so he needed to defend the President and stay on message.\textsuperscript{1030}

Cohen also recalled speaking with the President’s personal counsel about pardons after the searches of his home and office had occurred, at a time when the media had reported that pardon discussions were occurring at the White House.\textsuperscript{1031} Cohen told the President’s personal counsel he had been a loyal lawyer and servant, and he said that after the searches he was in an uncomfortable position and wanted to know what was in it for him.\textsuperscript{1032} According to Cohen, the President’s personal counsel responded that Cohen should stay on message, that the investigation was a witch hunt, and that everything would be fine.\textsuperscript{1033} Cohen understood based on this conversation and previous conversations about pardons with the President’s personal counsel that as long as he stayed on message, he would be taken care of by the President, either through a pardon or through the investigation being shut down.\textsuperscript{1034}

\textsuperscript{1025} @realDonaldTrump 4/21/18 (9:10 a.m. ET) Tweets.

\textsuperscript{1026} 4/21/18 Email, Costello to Cohen.

\textsuperscript{1027} 4/21/18 Email, Costello to Cohen.

\textsuperscript{1028} Cohen 9/12/18 302, at 11.

\textsuperscript{1029} Cohen 9/12/18 302, at 10.

\textsuperscript{1030} Cohen 9/12/18 302, at 10.

\textsuperscript{1031} Cohen 11/20/18 302, at 7. At a White House press briefing on April 23, 2018, in response to a question about whether the White House had “close[d] the door one way or the other on the President pardoning Michael Cohen,” Sanders said, “It’s hard to close the door on something that hasn’t taken place. I don’t like to discuss or comment on hypothetical situations that may or may not ever happen. I would refer you to personal attorneys to comment on anything specific regarding that case, but we don’t have anything at this point.” Sarah Sanders, White House Daily Briefing, C-SPAN (Apr. 23, 2018).

\textsuperscript{1032} Cohen 11/20/18 302, at 7; Cohen 3/19/19 302, at 3.

\textsuperscript{1033} Cohen 3/19/19 302, at 3.

\textsuperscript{1034} Cohen 3/19/19 302, at 3-4.
On April 24, 2018, the President responded to a reporter's inquiry whether he would consider a pardon for Cohen with, "Stupid question." On June 8, 2018, the President said he "hadn’t even thought about" pardons for Manafort or Cohen, and continued, "It’s far too early to be thinking about that. They haven’t been convicted of anything. There’s nothing to pardon." And on June 15, 2018, the President expressed sympathy for Cohen, Manafort, and Flynn in a press interview and said, "I feel badly about a lot of them, because I think a lot of it is very unfair.

5. The President’s Conduct After Cohen Began Cooperating with the Government

On July 2, 2018, ABC News reported based on an “exclusive” interview with Cohen that Cohen “strongly signaled his willingness to cooperate with special counsel Robert Mueller and federal prosecutors in the Southern District of New York—even if that puts President Trump in jeopardy.” That week, the media reported that Cohen had added an attorney to his legal team who previously had worked as a legal advisor to President Bill Clinton.

Beginning on July 20, 2018, the media reported on the existence of a recording Cohen had made of a conversation he had with candidate Trump about a payment made to a second woman who said she had had an affair with Trump. On July 21, 2018, the President responded: "Inconceivable that the government would break into a lawyer’s office (early in the morning)—almost unheard of. Even more inconceivable that a lawyer would tape a client—totally unheard of & perhaps illegal. The good news is that your favorite President did nothing wrong." On July 27, 2018, after the media reported that Cohen was willing to inform investigators that Donald Trump Jr. told his father about the June 9, 2016 meeting to get “dirt” on Hillary Clinton, the President tweeted: “[S]o the Fake News doesn’t waste my time with dumb questions, NO, I did NOT know of the meeting with my son, Don Jr. Sounds to me like someone is trying to make up

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1036 President Donald Trump Holds Media Availability Before Departing for the G-7 Summit, CQ Newsmaker Transcripts (June 8, 2018).
1038 EXCLUSIVE: Michael Cohen says family and country, not President Trump, is his ‘first loyalty’, ABC (July 2, 2018). Cohen said in the interview, “To be crystal clear, my wife, my daughter and my son, and this country have my first loyalty.”
1039 See e.g., Darren Samuelsohn, Michael Cohen hires Clinton scandal veteran Lanny Davis, Politico (July 5, 2018).
1041 @realDonaldTrump 7/21/18 (8:10 a.m. ET) Tweet.
1042 See, e.g., Jim Sciutto, Cuomo Prime Time Transcript, CNN (July 26, 2018).
stories in order to get himself out of an unrelated jam (Taxi cabs maybe?). He even retained Bill and Crooked Hillary’s lawyer. Gee, I wonder if they helped him make the choice!1043

On August 21, 2018, Cohen pleaded guilty in the Southern District of New York to eight felony charges, including two counts of campaign-finance violations based on the payments he had made during the final weeks of the campaign to women who said they had affairs with the President.1044 During the plea hearing, Cohen stated that he had worked “at the direction of” the candidate in making those payments.1045 The next day, the President contrasted Cohen’s cooperation with Manafort’s refusal to cooperate, tweeting, “I feel very badly for Paul Manafort and his wonderful family. ‘Justice’ took a 12 year old tax case, among other things, applied tremendous pressure on him and, unlike Michael Cohen, he refused to ‘break’—make up stories in order to get a ‘deal.’ Such respect for a brave man!”1046

On September 17, 2018, this Office submitted written questions to the President that included questions about the Trump Tower Moscow project and attached Cohen’s written statement to Congress and the Letter of Intent signed by the President.1047 Among other issues, the questions asked the President to describe the timing and substance of discussions he had with Cohen about the project, whether they discussed a potential trip to Russia, and whether the President “at any time direct[ed] or suggest[ed] that discussions about the Trump Moscow project should cease,” or whether the President was “informed at any time that the project had been abandoned.”1048

On November 20, 2018, the President submitted written responses that did not answer those questions about Trump Tower Moscow directly and did not provide any information about the timing of the candidate’s discussions with Cohen about the project or whether he participated in any discussions about the project being abandoned or no longer pursued.1049 Instead, the President’s answers stated in relevant part:

I had few conversations with Mr. Cohen on this subject. As I recall, they were brief, and they were no memorable. I was not enthused about the proposal, and I do not recall any discussion of travel to Russia in connection with it. I do not remember discussing it with

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1043 @realDonaldTrump 7/27/18 (7:26 a.m. ET) Tweet; @realDonaldTrump 7/27/18 (7:38 a.m. ET) Tweet; @realDonaldTrump 7/27/18 (7:56 a.m. ET) Tweet. At the time of these tweets, the press had reported that Cohen’s financial interests in taxi cab medallions were being scrutinized by investigators. See, e.g., Matt Apuzzo et al., Michael Cohen Secretly Taped Trump Discussing Payment to Playboy Model, New York Times (July 20, 2018).

1044 Cohen Information.

1045 Cohen 8/21/18 Transcript, at 23.

1046 @realDonaldTrump 8/22/18 (9:21 a.m. ET) Tweet.

1047 9/17/18 Letter, Special Counsel’s Office to President’s Personal Counsel (attaching written questions for the President, with attachments).

1048 9/17/18 Letter, Special Counsel’s Office to President’s Personal Counsel (attaching written questions for the President), Question III, Parts (a) through (g).

1049 Written Responses of Donald J. Trump (Nov. 20, 2018).
anyone else at the Trump Organization, although it is possible. I do not recall being aware at the time of any communications between Mr. Cohen and Felix Sater and any Russian government official regarding the Letter of Intent.\textsuperscript{1050}

On November 29, 2018, Cohen pleaded guilty to making false statements to Congress based on his statements about the Trump Tower Moscow project.\textsuperscript{1051} In a plea agreement with this Office, Cohen agreed to “provide truthful information regarding any and all matters as to which this Office deems relevant.”\textsuperscript{1052} Later on November 29, after Cohen’s guilty plea had become public, the President spoke to reporters about the Trump Tower Moscow project, saying:

I decided not to do the project. . . . I decided ultimately not to do it. There would have been nothing wrong if I did do it. If I did do it, there would have been nothing wrong. That was my business. . . . It was an option that I decided not to do. . . . I decided not to do it. The primary reason . . . I was focused on running for President. . . . I was running my business while I was campaigning. There was a good chance that I wouldn’t have won, in which case I would’ve gone back into the business. And why should I lose lots of opportunities?\textsuperscript{1053}

The President also said that Cohen was “a weak person. And by being weak, unlike other people that you watch—he is a weak person. And what he’s trying to do is get a reduced sentence. So he’s lying about a project that everybody knew about.”\textsuperscript{1054} The President also brought up Cohen’s written submission to Congress regarding the Trump Tower Moscow project: “So here’s the story: Go back and look at the paper that Michael Cohen wrote before he testified in the House and/or Senate. It talked about his position.”\textsuperscript{1055} The President added, “Even if [Cohen] was right, it doesn’t matter because I was allowed to do whatever I wanted during the campaign.”\textsuperscript{1056}

In light of the President’s public statements following Cohen’s guilty plea that he “decided not to do the project,” this Office again sought information from the President about whether he participated in any discussions about the project being abandoned or no longer pursued, including when he “decided not to do the project,” who he spoke to about that decision, and what motivated

\textsuperscript{1050} Written Responses of Donald J. Trump (Nov. 20, 2018), at 15 (Response to Question III, Parts (a) through (g)).

\textsuperscript{1051} Cohen Information; Cohen 8/21/18 Transcript.

\textsuperscript{1052} Plea Agreement at 4, United States v. Michael Cohen, 1:18-cr-850 (S.D.N.Y. Nov. 29, 2018).

\textsuperscript{1053} President Trump Departure Remarks, C-SPAN (Nov. 29, 2018). In contrast to the President’s remarks following Cohen’s guilty plea, Cohen’s August 28, 2017 statement to Congress stated that Cohen, not the President, “decided to abandon the proposal” in late January 2016; that Cohen “did not ask or brief Mr. Trump . . . before I made the decision to terminate further work on the proposal”; and that the decision to abandon the proposal was “unrelated” to the Campaign. P-SCO-000009477 (Statement of Michael D. Cohen, Esq. (Aug. 28, 2017)).

\textsuperscript{1054} President Trump Departure Remarks, C-SPAN (Nov. 29, 2018).

\textsuperscript{1055} President Trump Departure Remarks, C-SPAN (Nov. 29, 2018).

\textsuperscript{1056} President Trump Departure Remarks, C-SPAN (Nov. 29, 2018).
the decision.\textsuperscript{1057} The Office also again asked for the timing of the President’s discussions with Cohen about Trump Tower Moscow and asked him to specify “what period of the campaign” he was involved in discussions concerning the project.\textsuperscript{1058} In response, the President’s personal counsel declined to provide additional information from the President and stated that “the President has fully answered the questions at issue.”\textsuperscript{1059}

In the weeks following Cohen’s plea and agreement to provide assistance to this Office, the President repeatedly implied that Cohen’s family members were guilty of crimes. On December 3, 2018, after Cohen had filed his sentencing memorandum, the President tweeted, “Michael Cohen asks judge for no Prison Time.’ You mean he can do all of the TERRORIBLE, unrelated to Trump, things having to do with fraud, big loans, Taxis, etc., and not serve a long prison term? He makes up stories to get a GREAT & ALREADY reduced deal for himself, and get his wife and father-in-law (who has the money?) off Scott Free. He lied for this outcome and should, in my opinion, serve a full and complete sentence.”\textsuperscript{1060}

On December 12, 2018, Cohen was sentenced to three years of imprisonment.\textsuperscript{1062} The next day, the President sent a series of tweets that said:

I never directed Michael Cohen to break the law.…… Those charges were just agreed to by him in order to embarrass the president and get a much reduced prison sentence, which he did—including the fact that his family was temporarily let off the hook. As a lawyer, Michael has great liability to me.\textsuperscript{1063}

On December 16, 2018, the President tweeted, “Remember, Michael Cohen only became a ‘Rat’ after the FBI did something which was absolutely unthinkable & unheard of until the Witch Hunt was illegally started. They BROKE INTO AN ATTORNEY’S OFFICE! Why didn’t they break into the DNC to get the Server, or Crooked’s office?”\textsuperscript{1064}

In January 2019, after the media reported that Cohen would provide public testimony in a congressional hearing, the President made additional public comments suggesting that Cohen’s

\textsuperscript{1057} 1/23/19 Letter, Special Counsel’s Office to President’s Personal Counsel.
\textsuperscript{1058} 1/23/19 Letter, Special Counsel’s Office to President’s Personal Counsel.
\textsuperscript{1059} 2/6/19 Letter, President’s Personal Counsel to Special Counsel’s Office.
\textsuperscript{1060} @realDonaldTrump 12/3/18 (10:24 a.m. ET and 10:29 a.m. ET) Tweets (emphasis added).
\textsuperscript{1061} @realDonaldTrump 12/3/18 (10:48 a.m. ET) Tweet.
\textsuperscript{1062} Cohen 12/12/18 Transcript.
\textsuperscript{1063} @realDonaldTrump 12/13/18 (8:17 a.m. ET, 8:25 a.m. ET, and 8:39 a.m. ET) Tweets (emphasis added).
\textsuperscript{1064} @realDonaldTrump 12/16/18 (9:39 a.m. ET) Tweet.
family members had committed crimes. In an interview on Fox on January 12, 2019, the President was asked whether he was worried about Cohen’s testimony and responded:

[1] In order to get his sentence reduced, [Cohen] says “I have an idea, I’ll ah, tell—I’ll give you some information on the president.” Well, there is no information. But he should give information maybe on his father-in-law because that’s the one that people want to look at because where does that money—that’s the money in the family. And I guess he didn’t want to talk about his father-in-law, he’s trying to get his sentence reduced. So it’s ah, pretty sad. You know, it’s weak and it’s very sad to watch a thing like that. 1065

On January 18, 2019, the President tweeted, “Kevin Corke, @FoxNews ‘Don’t forget, Michael Cohen has already been convicted of perjury and fraud, and as recently as this week, the Wall Street Journal has suggested that he may have stolen tens of thousands of dollars. . . .’ Lying to reduce his jail time! Watch father-in-law.”1066

On January 23, 2019, Cohen postponed his congressional testimony, citing threats against his family.1067 The next day, the President tweeted, “So interesting that bad lawyer Michael Cohen, who sadly will not be testifying before Congress, is using the lawyer of Crooked Hillary Clinton to represent him—Gee, how did that happen?”1068

Also in January 2019, Giuliani gave press interviews that appeared to confirm Cohen’s account that the Trump Organization pursued the Trump Tower Moscow project well past January 2016. Giuliani stated that “it’s our understanding that [discussions about the Trump Moscow project] went on throughout 2016. Weren’t a lot of them, but there were conversations. Can’t be sure of the exact date. But the president can remember having conversations with him about it. . . . The president also remembers—yeah, probably up—could be up to as far as October, November.”1069 In an interview with the New York Times, Giuliani quoted the President as saying that the discussions regarding the Trump Moscow project were “going on from the day I announced to the day I won.”1070 On January 21, 2019, Giuliani issued a statement that said: “My recent statements about discussions during the 2016 campaign between Michael Cohen and candidate Donald Trump about a potential Trump Moscow ‘project’ were hypothetical and not based on conversations I had with the president.”1071

1065 Jeanine Pirro Interview with President Trump, Fox News (Jan. 12, 2019) (emphasis added).
1066 @realDonaldTrump 1/18/19 (10:02 a.m. ET) Tweet (emphasis added).
1067 Statement by Lanny Davis, Cohen’s personal counsel (Jan. 23, 2019).
1068 @realDonaldTrump 1/24/19 (7:48 a.m. ET) Tweet.
1069 Meet the Press Interview with Rudy Giuliani, NBC (Jan. 20, 2019).
1071 Maggie Haberman, Giuliani Says His Moscow Trump Tower Comments Were “Hypothetical”, New York Times (Jan. 21, 2019). In a letter to this Office, the President’s counsel stated that Giuliani’s public comments “were not intended to suggest nor did they reflect knowledge of the existence or timing
Analysis

In analyzing the President’s conduct related to Cohen, the following evidence is relevant to the elements of obstruction of justice.

a. Obstructive act. We gathered evidence of the President’s conduct related to Cohen on two issues: (i) whether the President or others aided or participated in Cohen’s false statements to Congress, and (ii) whether the President took actions that would have the natural tendency to prevent Cohen from providing truthful information to the government.

i. First, with regard to Cohen’s false statements to Congress, while there is evidence, described below, that the President knew Cohen provided false testimony to Congress about the Trump Tower Moscow project, the evidence available to us does not establish that the President directed or aided Cohen’s false testimony.

Cohen said that his statements to Congress followed a “party line” that developed within the campaign to align with the President’s public statements distancing the President from Russia. Cohen also recalled that, in speaking with the President in advance of testifying, he made it clear that he would stay on message—which Cohen believed they both understood would require false testimony. But Cohen said that he and the President did not explicitly discuss whether Cohen’s testimony about the Trump Tower Moscow project would be or was false, and the President did not direct him to provide false testimony. Cohen also said he did not tell the President about the specifics of his planned testimony. During the time when his statement to Congress was being drafted and circulated to members of the JDA, Cohen did not speak directly to the President about the statement, but rather communicated with the President’s personal counsel—as corroborated by phone records showing extensive communications between Cohen and the President’s personal counsel before Cohen submitted his statement and when he testified before Congress.

Cohen recalled that in his discussions with the President’s personal counsel on August 27, 2017—the day before Cohen’s statement was submitted to Congress—Cohen said that there were more communications with Russia and more communications with candidate Trump than the statement reflected. Cohen recalled expressing some concern at that time. According to Cohen, the President’s personal counsel—who did not have first-hand knowledge of the project—responded by saying that there was no need to muddy the water, that it was unnecessary to include those details because the project did not take place, and that Cohen should keep his statement short and tight, not elaborate, stay on message, and not contradict the President. Cohen’s recollection of the content of those conversations is consistent with direction about the substance of Cohen’s draft statement that appeared to come from members of the JDA. For example, Cohen omitted any reference to his outreach to Russian government officials to set up a meeting between Trump and Putin during the United Nations General Assembly, and Cohen believed it was a decision of

of conversations beyond that contained in the President’s [written responses to the Special Counsel’s Office].” 2/6/19 Letter, President’s Personal Counsel to Special Counsel’s Office.
the JDA to delete the sentence, "The building project led me to make limited contacts with Russian government officials."

The President’s personal counsel declined to provide us with his account of his conversations with Cohen, and there is no evidence available to us that indicates that the President was aware of the information Cohen provided to the President’s personal counsel. The President’s conversations with his personal counsel were presumptively protected by attorney-client privilege, and we did not seek to obtain the contents of any such communications. The absence of evidence about the President and his counsel’s conversations about the drafting of Cohen’s statement precludes us from assessing what, if any, role the President played.

ii. Second, we considered whether the President took actions that would have the natural tendency to prevent Cohen from providing truthful information to criminal investigators or to Congress.

Before Cohen began to cooperate with the government, the President publicly and privately urged Cohen to stay on message and not “flip.” Cohen recalled the President’s personal counsel telling him that he would be protected as long as he did not go “rogue.” In the days and weeks that followed the April 2018 searches of Cohen’s home and office, the President told reporters that Cohen was a “good man” and said he was “a fine person with a wonderful family . . . who I have always liked & respected.” Privately, the President told Cohen to “hang in there” and “stay strong.” People who were close to both Cohen and the President passed messages to Cohen that “the President loves you,” “the boss loves you,” and “everyone knows the boss has your back.” Through the President’s personal counsel, the President also had previously told Cohen “thanks for what you do” after Cohen provided information to the media about payments to women that, according to Cohen, both Cohen and the President knew was false. At that time, the Trump Organization continued to pay Cohen’s legal fees, which was important to Cohen. Cohen also recalled discussing the possibility of a pardon with the President’s personal counsel, who told him to stay on message and everything would be fine. The President indicated in his public statements that a pardon had not been ruled out, and also stated publicly that “[m]ost people will flip if the Government lets them out of trouble” but that he “[didn’t] see Michael doing that.”

After it was reported that Cohen intended to cooperate with the government, however, the President accused Cohen of “mak[ing] up stories in order to get himself out of an unrelated jam (Taxi cabs maybe?),” called Cohen a “rat,” and on multiple occasions publicly suggested that Cohen’s family members had committed crimes. The evidence concerning this sequence of events could support an inference that the President used inducements in the form of positive messages in an effort to get Cohen not to cooperate, and then turned to attacks and intimidation to deter the provision of information or undermine Cohen’s credibility once Cohen began cooperating.

b. Nexus to an official proceeding. The President’s relevant conduct towards Cohen occurred when the President knew the Special Counsel’s Office, Congress, and the U.S. Attorney’s Office for the Southern District of New York were investigating Cohen’s conduct. The President acknowledged through his public statements and tweets that Cohen potentially could cooperate with the government investigations.
c. **Intent** In analyzing the President’s intent in his actions towards Cohen as a potential witness, there is evidence that could support the inference that the President intended to discourage Cohen from cooperating with the government because Cohen’s information would shed adverse light on the President’s campaign-period conduct and statements.

i. Cohen’s false congressional testimony about the Trump Tower Moscow project was designed to minimize connections between the President and Russia and to help limit the congressional and DOJ Russia investigations—a goal that was in the President’s interest, as reflected by the President’s own statements. During and after the campaign, the President made repeated statements that he had “no business” in Russia and said that there were “no deals that could happen in Russia, because we’ve stayed away.” As Cohen knew, and as he recalled communicating to the President during the campaign, Cohen’s pursuit of the Trump Tower Moscow project cast doubt on the accuracy or completeness of these statements.

In connection with his guilty plea, Cohen admitted that he had multiple conversations with candidate Trump to give him status updates about the Trump Tower Moscow project, that the conversations continued through at least June 2016, and that he discussed with Trump possible travel to Russia to pursue the project. The conversations were not off-hand, according to Cohen, because the project had the potential to be so lucrative. In addition, text messages to and from Cohen and other records further establish that Cohen’s efforts to advance the project did not end in January 2016 and that in May and June 2016, Cohen was considering the timing for possible trips to Russia by him and Trump in connection with the project.

The evidence could support an inference that the President was aware of these facts at the time of Cohen’s false statements to Congress. Cohen discussed the project with the President in early 2017 following media inquiries. Cohen recalled that on September 20, 2017, the day after he released to the public his opening remarks to Congress—which said the project “was terminated in January of 2016”—the President’s personal counsel told him the President was pleased with what Cohen had said about Trump Tower Moscow. And after Cohen’s guilty plea, the President told reporters that he had ultimately decided not to do the project, which supports the inference that he remained aware of his own involvement in the project and the period during the Campaign in which the project was being pursued.

ii. The President’s public remarks following Cohen’s guilty plea also suggest that the President may have been concerned about what Cohen told investigators about the Trump Tower Moscow project. At the time the President submitted written answers to questions from this Office about the project and other subjects, the media had reported that Cohen was cooperating with the government but Cohen had not yet pleaded guilty to making false statements to Congress. Accordingly, it was not publicly known what information about the project Cohen had provided to the government. In his written answers, the President did not provide details about the timing and substance of his discussions with Cohen about the project and gave no indication that he had decided to no longer pursue the project. Yet after Cohen pleaded guilty, the President publicly stated that he had personally made the decision to abandon the project. The President then declined to clarify the seeming discrepancy to our Office or answer additional questions. The content and timing of the President’s provision of information about his knowledge and actions regarding the Trump Tower Moscow project is evidence that the President may have been concerned about the information that Cohen could provide as a witness.
iii. The President’s concern about Cohen cooperating may have been directed at the Southern District of New York investigation into other aspects of the President’s dealings with Cohen rather than an investigation of Trump Tower Moscow. There also is some evidence that the President’s concern about Cohen cooperating was based on the President’s stated belief that Cohen would provide false testimony against the President in an attempt to obtain a lesser sentence for his unrelated criminal conduct. The President tweeted that Manafort, unlike Cohen, refused to “break” and “make up stories in order to get a ‘deal.’” And after Cohen pleaded guilty to making false statements to Congress, the President said, “what [Cohen]’s trying to do is get a reduced sentence. So he’s lying about a project that everybody knew about.” But the President also appeared to defend the underlying conduct, saying, “Even if [Cohen] was right, it doesn’t matter because I was allowed to do whatever I wanted during the campaign.” As described above, there is evidence that the President knew that Cohen had made false statements about the Trump Tower Moscow project and that Cohen did so to protect the President and minimize the President’s connections to Russia during the campaign.

iv. Finally, the President’s statements insinuating that members of Cohen’s family committed crimes after Cohen began cooperating with the government could be viewed as an effort to retaliate against Cohen and chill further testimony adverse to the President by Cohen or others. It is possible that the President believes, as reflected in his tweets, that Cohen “ma[d]e[] up stories” in order to get a deal for himself and “get his wife and father-in-law . . . off Scott Free.” It also is possible that the President’s mention of Cohen’s wife and father-in-law were not intended to affect Cohen as a witness but rather were part of a public-relations strategy aimed at discrediting Cohen and deflecting attention away from the President on Cohen-related matters. But the President’s suggestion that Cohen’s family members committed crimes happened more than once, including just before Cohen was sentenced (at the same time as the President stated that Cohen “should, in my opinion, serve a full and complete sentence”) and again just before Cohen was scheduled to testify before Congress. The timing of the statements supports an inference that they were intended at least in part to discourage Cohen from further cooperation.

L. Overarching Factual Issues

Although this report does not contain a traditional prosecution decision or declination decision, the evidence supports several general conclusions relevant to analysis of the facts concerning the President’s course of conduct.

1. Three features of this case render it atypical compared to the heartland obstruction-of-justice prosecutions brought by the Department of Justice.

First, the conduct involved actions by the President. Some of the conduct did not implicate the President’s constitutional authority and raises garden-variety obstruction-of-justice issues. Other events we investigated, however, drew upon the President’s Article II authority, which raised constitutional issues that we address in Volume II, Section III.B., infra. A factual analysis of that conduct would have to take into account both that the President’s acts were facially lawful and that his position as head of the Executive Branch provides him with unique and powerful means of influencing official proceedings, subordinate officers, and potential witnesses.