was pursuing the proposed Trump Tower Moscow project through June 2016 and candidate Trump was repeatedly briefed on the progress of those efforts. In addition, some witnesses said that Trump was aware that [**Harm to Ongoing Matter**] at a time when public reports stated that Russian intelligence officials were behind the hacks, and that Trump privately sought information about future WikiLeaks releases. More broadly, multiple witnesses described the President’s preoccupation with press coverage of the Russia investigation and his persistent concern that it raised questions about the legitimacy of his election.  

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

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

**Overview**

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

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498 See Volume II, Section II.K.1, *infra.*
499 See Volume I, Section III.D.1, *supra.*
500 In addition to whether the President had a motive related to Russia-related matters that an FBI investigation could uncover, we considered whether the President’s intent in firing Comey was connected to other conduct that could come to light as a result of the FBI’s Russian-interference investigation. In particular, Michael Cohen was a potential subject of investigation because of his pursuit of the Trump Tower Moscow project and involvement in other activities. And facts uncovered in the Russia investigation, which our Office referred to the U.S. Attorney’s Office for the Southern District of New York, ultimately led to the conviction of Cohen in the Southern District of New York for campaign-finance offenses related to payments he said he made at the direction of the President. See Volume II, Section II.K.5, *infra.* The investigation, however, did not establish that when the President fired Comey, he was considering the possibility that the FBI’s investigation would uncover these payments or that the President’s intent in firing Comey was otherwise connected to a concern about these matters coming to light.
criticizing the Special Counsel’s investigation. That weekend, the President called McGahn and directed him to have the Special Counsel removed because of asserted conflicts of interest. McGahn did not carry out the instruction for fear of being seen as triggering another Saturday Night Massacre and instead prepared to resign. McGahn ultimately did not quit and the President did not follow up with McGahn on his request to have the Special Counsel removed.

Evidence

1. The Appointment of the Special Counsel and the President’s Reaction

On May 17, 2017, Acting Attorney General Rosenstein appointed Robert S. Mueller, III as Special Counsel and authorized him to conduct the Russia investigation and matters that arose from the investigation. The President learned of the Special Counsel’s appointment from Sessions, who was with the President, Hunt, and McGahn conducting interviews for a new FBI Director. Sessions stepped out of the Oval Office to take a call from Rosenstein, who told him about the Special Counsel appointment, and Sessions then returned to inform the President of the news. According to notes written by Hunt, when Sessions told the President that a Special Counsel had been appointed, the President slumped back in his chair and said, “Oh my God. This is terrible. This is the end of my Presidency. I’m fucked.” The President became angry and lambasted the Attorney General for his decision to recuse from the investigation, stating, “How could you let this happen, Jeff?” The President said the position of Attorney General was his most important appointment and that Sessions had “let [him] down,” contrasting him to Eric Holder and Robert Kennedy. Sessions recalled that the President said to him, “you were supposed to protect me,” or words to that effect. The President returned to the consequences of the appointment and said, “Everyone tells me if you get one of these independent counsels it ruins your presidency. It takes years and years and I won’t be able to do anything. This is the worst thing that ever happened to me.”

502 Sessions 1/7/18 302, at 13; Hunt 2/1/18 302, at 18; McGahn 12/14/17 302, at 4; Hunt-000039 (Hunt 5/17/17 Notes).
503 Sessions 1/7/18 302, at 13; Hunt 2/1/18 302, at 18; McGahn 12/14/17 302, at 4; Hunt-000039 (Hunt 5/17/17 Notes).
504 Hunt-000039 (Hunt 5/17/17 Notes).
505 Hunt-000039 (Hunt 5/17/17 Notes); Sessions 1/17/18 302, at 13-14.
506 Hunt-000040; see Sessions 1/17/18 302, at 14.
507 Sessions 1/7/18 302, at 14.
508 Hunt-000040 (Hunt 5/17/17 Notes); see Sessions 1/17/18 302, at 14. Early the next morning, the President tweeted, “This is the single greatest witch hunt of a politician in American history!” @realDonaldTrump 5/18/17 (7:52 a.m. ET) Tweet.
The President then told Sessions he should resign as Attorney General. Sessions agreed to submit his resignation and left the Oval Office. Hicks saw the President shortly after Sessions departed and described the President as being extremely upset by the Special Counsel’s appointment. Hicks said that she had only seen the President like that one other time, when the Access Hollywood tape came out during the campaign.

The next day, May 18, 2017, FBI agents delivered to McGahn a preservation notice that discussed an investigation related to Comey’s termination and directed the White House to preserve all relevant documents. When he received the letter, McGahn issued a document hold to White House staff and instructed them not to send out any burn bags over the weekend while he sorted things out.

Also on May 18, Sessions finalized a resignation letter that stated, “Pursuant to our conversation of yesterday, and at your request, I hereby offer my resignation.” Sessions, accompanied by Hunt, brought the letter to the White House and handed it to the President. The President put the resignation letter in his pocket and asked Sessions several times whether he wanted to continue serving as Attorney General. Sessions ultimately told the President he wanted to stay, but it was up to the President. The President said he wanted Sessions to stay. At the conclusion of the meeting, the President shook Sessions’s hand but did not return the resignation letter.

When Priebus and Bannon learned that the President was holding onto Sessions’s resignation letter, they became concerned that it could be used to influence the Department of Justice. Priebus told Sessions it was not good for the President to have the letter because it

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509 Hunt-000041 (Hunt 5/17/17 Notes); Sessions 1/17/18 302, at 14.
510 Hunt-000041 (Hunt 5/17/17 Notes); Sessions 1/17/18 302, at 14.
511 Hicks 12/8/17 302, at 21.
512 Hicks 12/8/17 302, at 21. The Access Hollywood tape was released on October 7, 2016, as discussed in Volume I, Section III.D.1, supra.
513 McGahn 12/14/17 302, at 9; SCR015_000175-82 (Undated Draft Memoranda to White House Staff).
514 McGahn 12/14/17 302, at 9; SCR015_000175-82 (Undated Draft Memoranda to White House Staff). The White House Counsel’s Office had previously issued a document hold on February 27, 2017. SCR015_000171 (2/17/17 Memorandum from McGahn to Executive Office of the President Staff).
515 Hunt-000047 (Hunt 5/18/17 Notes); 5/18/17 Letter, Sessions to President Trump (resigning as Attorney General)
516 Hunt-000047-49 (Hunt 5/18/17 Notes); Sessions 1/17/18 302, at 14.
517 Hunt-000047-49 (Hunt 5/18/17 Notes); Sessions 1/17/18 302, at 14.
518 Hunt-000048-49 (Hunt 5/18/17 Notes); Sessions 1/17/18 302, at 14.
519 Sessions 1/17/18 302, at 14.
520 Hunt-000049 (Hunt 5/18/17 Notes).
521 Hunt-000050-51 (Hunt 5/18/17 Notes).
would function as a kind of “shock collar” that the President could use any time he wanted; Priebus said the President had “DOJ by the throat.”

Priebus and Bannon told Sessions they would attempt to get the letter back from the President with a notation that he was not accepting Sessions’s resignation.

On May 19, 2017, the President left for a trip to the Middle East. Hicks recalled that on the President’s flight from Saudi Arabia to Tel Aviv, the President pulled Sessions’s resignation letter from his pocket, showed it to a group of senior advisors, and asked them what he should do about it. 

During the trip, Priebus asked about the resignation letter so he could return it to Sessions, but the President told him that the letter was back at the White House, somewhere in the residence. It was not until May 30, three days after the President returned from the trip, that the President returned the letter to Sessions with a notation saying, “Not accepted.”

2. The President Asserts that the Special Counsel has Conflicts of Interest

In the days following the Special Counsel’s appointment, the President repeatedly told advisors, including Priebus, Bannon, and McGahn, that Special Counsel Mueller had conflicts of interest. The President cited as conflicts that Mueller had interviewed for the FBI Director position shortly before being appointed as Special Counsel, that he had worked for a law firm that represented people affiliated with the President, and that Mueller had disputed certain fees relating to his membership in a Trump golf course in Northern Virginia. The President’s advisors pushed

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522 Hunt-000050 (Hunt 5/18/17 Notes); Priebus 10/13/17 302, at 21; Hunt 2/1/18 302, at 21.
523 Hunt-000051 (Hunt 5/18/17 Notes).
524 SCR026_000110 (President’s Daily Diary, 5/19/17).
525 Hicks 12/8/17 302, at 22.
526 Priebus 10/13/17 302, at 21. Hunt’s notes state that when Priebus returned from the trip, Priebus told Hunt that the President was supposed to have given him the letter, but when he asked for it, the President “slapped the desk” and said he had forgotten it back at the hotel. Hunt-000052 (Hunt Notes, undated).
527 Hunt-000052-53 (Hunt 5/30/17 Notes); 5/18/17 Letter, Sessions to President Trump (resignation letter). Robert Porter, who was the White House Staff Secretary at the time, said that in the days after the President returned from the Middle East trip, the President took Sessions’s letter out of a drawer in the Oval Office and showed it to Porter. Porter 4/13/18 302, at 8. Personal Privacy
528 Priebus 1/18/18 302, at 12; Bannon 2/14/18 302, at 10; McGahn 3/8/18 302, at 1; McGahn 12/14/17 302, at 10; Bannon 10/26/18 302, at 12.
529 Priebus 1/18/18 302, at 12; Bannon 2/14/18 302, at 10. In October 2011, Mueller resigned his family’s membership from Trump National Golf Club in Sterling, Virginia, in a letter that noted that “we live in the District and find that we are unable to make full use of the Club” and that inquired “whether we would be entitled to a refund of a portion of our initial membership fee,” which was paid in 1994. 10/12/11 Letter, Muellers to Trump National Golf Club. About two weeks later, the controller of the club responded that the Muellers’ resignation would be effective October 31, 2011, and that they would be “placed on a waitlist to be refunded on a first resigned / first refunded basis” in accordance with the club’s legal
back on his assertion of conflicts, telling the President they did not count as true conflicts. Bannon recalled telling the President that the purported conflicts were “ridiculous” and that none of them was real or could come close to justifying precluding Mueller from serving as Special Counsel. As for Mueller’s interview for FBI Director, Bannon recalled that the White House had invited Mueller to speak to the President to offer a perspective on the institution of the FBI. Bannon said that, although the White House thought about beseeching Mueller to become Director again, he did not come in looking for the job. Bannon also told the President that the law firm position did not amount to a conflict in the legal community. And Bannon told the President that the golf course dispute did not rise to the level of a conflict and claiming one was “ridiculous and petty.” The President did not respond when Bannon pushed back on the stated conflicts of interest.

On May 23, 2017, the Department of Justice announced that ethics officials had determined that the Special Counsel’s prior law firm position did not bar his service, generating media reports that Mueller had been cleared to serve. McGahn recalled that around the same time, the President complained about the asserted conflicts and prodded McGahn to reach out to Rosenstein about the issue. McGahn said he responded that he could not make such a call and that the President should instead consult his personal lawyer because it was not a White House issue. Contemporaneous notes of a May 23, 2017 conversation between McGahn and the President reflect that McGahn told the President that he would not call Rosenstein and that he would suggest that the President not make such a call either. McGahn advised that the President could discuss the issue with his personal attorney but it would “look like still trying to meddle in [the] investigation” and “knocking out Mueller” would be “[a]nother fact used to claim obst[ru]ction of documents. 10/27/11 Letter, Muellers to Trump National Golf Club. The Muellers have not had further contact with the club.

530 Priebus 4/3/18 302, at 3; Bannon 10/26/18 302, at 13 (confirming that he, Priebus, and McGahn pushed back on the asserted conflicts).
532 Bannon 10/26/18 302, at 12.
533 Bannon 10/26/18 302, at 12.
534 Bannon 10/26/18 302, at 12.
536 Bannon 10/26/18 302, at 12.
538 McGahn 3/8/18 302, at 1; McGahn 12/14/17 302, at 10; Priebus 1/18/18 302, at 12.
539 McGahn 3/8/18 302, at 1. McGahn and Donaldson said that after the appointment of the Special Counsel, they considered themselves potential fact witnesses and accordingly told the President that inquiries related to the investigation should be brought to his personal counsel. McGahn 12/14/17 302, at 7; Donaldson 4/2/18 302, at 5.
540 SC_AD_00361 (Donaldson 5/31/17 Notes).
just[i]ce]. McGahn told the President that his “biggest exposure” was not his act of firing Comey but his “other contacts” and “calls,” and his “ask re: Flynn.” By the time McGahn provided this advice to the President, there had been widespread reporting on the President’s request for Comey’s loyalty, which the President publicly denied; his request that Comey “let[] Flynn go,” which the President also denied; and the President’s statement to the Russian Foreign Minister that the termination of Comey had relieved “great pressure” related to Russia, which the President did not deny.

On June 8, 2017, Comey testified before Congress about his interactions with the President before his termination, including the request for loyalty, the request that Comey “let[] Flynn go,” and the request that Comey “lift the cloud” over the presidency caused by the ongoing investigation. Comey’s testimony led to a series of news reports about whether the President had obstructed justice. On June 9, 2017, the Special Counsel’s Office informed the White House Counsel’s Office that investigators intended to interview intelligence community officials who had allegedly been asked by the President to push back against the Russia investigation.

On Monday, June 12, 2017, Christopher Ruddy, the chief executive of Newsmax Media and a longtime friend of the President’s, met at the White House with Priebus and Bannon. Ruddy recalled that they told him the President was strongly considering firing the Special Counsel

541 SC_AD_00361 (Donaldson 5/31/17 Notes).
542 SC_AD_00361 (Donaldson 5/31/17 Notes).

544 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). Comey testified that he deliberately caused his memorandum documenting the February 14, 2017 meeting to be leaked to the New York Times in response to a tweet from the President, sent on May 12, 2017, that stated “James Comey better hope that there are no ‘tapes’ of our conversations before he starts leaking to the press!,” and because he thought sharing the memorandum with a reporter “might prompt the appointment of a special counsel.” Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (CQ Cong. Transcripts, at 55) (testimony by James B. Comey, former Director of the FBI).

545 See, e.g., Matt Zapotosky, Comey lays out the case that Trump obstructed justice, Washington Post (June 8, 2017) (“Legal analysts said Comey’s testimony clarified and bolstered the case that the president obstructed justice.”).

546 6/9/17 Email, Special Counsel’s Office to the White House Counsel’s Office. This Office made the notification to give the White House an opportunity to invoke executive privilege in advance of the interviews. On June 12, 2017, the Special Counsel’s Office interviewed Admiral Rogers in the presence of agency counsel. Rogers 6/12/17 302, at 1. On June 13, the Special Counsel’s Office interviewed Ledgett. Ledgett 6/13/17 302, at 1. On June 14, the Office interviewed Coats and other personnel from his office. Coats 6/14/17 302, at 1; Gistaro 6/14/17 302, at 1; Culver 6/14/17 302, at 1.

547 Ruddy 6/6/18 302, at 5.
and that he would do so precipitously, without vetting the decision through Administration officials. Ruddy asked Priebus if Ruddy could talk publicly about the discussion they had about the Special Counsel, and Priebus said he could. Priebus told Ruddy he hoped another blow up like the one that followed the termination of Comey did not happen. Later that day, Ruddy stated in a televised interview that the President was “considering perhaps terminating the Special Counsel” based on purported conflicts of interest. Ruddy later told another news outlet that “Trump is definitely considering” terminating the Special Counsel and “it’s not something that’s being dismissed.” Ruddy’s comments led to extensive coverage in the media that the President was considering firing the Special Counsel.

White House officials were unhappy with that press coverage and Ruddy heard from friends that the President was upset with him. On June 13, 2017, Sanders asked the President for guidance on how to respond to press inquiries about the possible firing of the Special Counsel. The President dictated an answer, which Sanders delivered, saying that “[w]hile the president has every right to fire the Special Counsel, “he has no intention to do so.”

Also on June 13, 2017, the President’s personal counsel contacted the Special Counsel’s Office and raised concerns about possible conflicts. The President’s counsel cited Mueller’s previous partnership in his law firm, his interview for the FBI Director position, and an asserted personal relationship he had with Comey. That same day, Rosenstein had testified publicly before Congress and said he saw no evidence of good cause to terminate the Special Counsel, including for conflicts of interest. Two days later, on June 15, 2017, the Special Counsel’s Office Attorney 6/18/17 Notes.

548 Ruddy 6/6/18 302, at 5-6.
549 Ruddy 6/6/18 302, at 6.
551 Trump Confidant Christopher Ruddy says Mueller has “real conflicts” as special counsel, PBS (June 12, 2017); Michael D. Shear & Maggie Haberman, Friend Says Trump Is Considering Firing Mueller as Special Counsel, New York Times (June 12, 2017).
554 Ruddy 6/6/18 302, at 6-7.
555 Sanders 7/3/18 302, at 6.
556 Glenn Thrush et al., Trump Stews, Staff Steps In, and Mueller Is Safe for Now, New York Times (June 13, 2017); see Sanders 7/3/18 302, at 6 (Sanders spoke with the President directly before speaking to the press on Air Force One and the answer she gave is the answer the President told her to give).
557 Special Counsel’s Office Attorney 6/13/17 Notes.
558 Special Counsel’s Office Attorney 6/13/17 Notes.
Office informed the Acting Attorney General’s office about the areas of concern raised by the President’s counsel and told the President’s counsel that their concerns had been communicated to Rosenstein so that the Department of Justice could take any appropriate action.\footnote{Special Counsel’s Office Attorney 6/15/17 Notes.}

3. The Press Reports that the President is Being Investigated for Obstruction of Justice and the President Directs the White House Counsel to Have the Special Counsel Removed

On the evening of June 14, 2017, the Washington Post published an article stating that the Special Counsel was investigating whether the President had attempted to obstruct justice.\footnote{Devlin Barrett et al., \textit{Special counsel is investigating Trump for possible obstruction of justice, officials say}, Washington Post (June 14, 2017).} This was the first public report that the President himself was under investigation by the Special Counsel’s Office, and cable news networks quickly picked up on the report.\footnote{CNN, for example, began running a chyron at 6:55 p.m. that stated: “WASH POST: MUELLER INVESTIGATING TRUMP FOR OBSTRUCTION OF JUSTICE.” CNN, (June 14, 2017, published online at 7:15 p.m. ET).} The Post story stated that the Special Counsel was interviewing intelligence community leaders, including Coats and Rogers, about what the President had asked them to do in response to Comey’s March 20, 2017 testimony; that the inquiry into obstruction marked “a major turning point” in the investigation; and that while “Trump had received private assurances from then-FBI Director James B. Comey starting in January that he was not personally under investigation,” “[o]fficers say that changed shortly after Comey’s firing.”\footnote{Devlin Barrett et al., \textit{Special counsel is investigating Trump for possible obstruction of justice, officials say}, Washington Post (June 14, 2017).} That evening, at approximately 10:31 p.m., the President called McGahn on McGahn’s personal cell phone and they spoke for about 15 minutes.\footnote{SCR026 000183 (President’s Daily Diary, 6/14/17) (reflecting call from the President to McGahn on 6/14/17 with start time 10:31 p.m. and end time 10:46 p.m.); Call Records of Don McGahn.} McGahn did not have a clear memory of the call but thought they might have discussed the stories reporting that the President was under investigation.\footnote{McGahn 2/28/19 302, at 1-2. McGahn thought he and the President also probably talked about the investiture ceremony for Supreme Court Justice Neil Gorsuch, which was scheduled for the following day. McGahn 2/28/18 302, at 2.}

Beginning early the next day, June 15, 2017, the President issued a series of tweets acknowledging the existence of the obstruction investigation and criticizing it. He wrote: “They made up a phony collusion with the Russians story, found zero proof, so now they go for obstruction of justice on the phony story. Nice”,\footnote{@realDonaldTrump 6/15/17 (6:55 a.m. ET) Tweet.} “You are witnessing the single greatest WITCH HUNT in American political history—led by some very bad and conflicted people!”,\footnote{@realDonaldTrump 6/15/17 (7:57 a.m. ET) Tweet.} and “Crooked H destroyed phones w/ hammer, ‘bleached’ emails, & had husband meet w/AG days...
before she was cleared—and they talk about obstruction?" The next day, June 16, 2017, the President wrote additional tweets criticizing the investigation: "After 7 months of investigations & committee hearings about my ‘collusion with the Russians,’ nobody has been able to show any proof. Sad!," and "I am being investigated for firing the FBI Director by the man who told me to fire the FBI Director! Witch Hunt."

On Saturday, June 17, 2017, the President called McGahn and directed him to have the Special Counsel removed. McGahn was at home and the President was at Camp David. In interviews with this Office, McGahn recalled that the President called him at home twice and on both occasions directed him to call Rosenstein and say that Mueller had conflicts that precluded him from serving as Special Counsel.

On the first call, McGahn recalled that the President said something like, "You gotta do this. You gotta call Rod." McGahn said he told the President that he would see what he could do. McGahn was perturbed by the call and did not intend to act on the request. He and other advisors believed the asserted conflicts were "silly" and "not real," and they had previously communicated that view to the President. McGahn also had made clear to the President that the White House Counsel’s Office should not be involved in any effort to press the issue of conflicts. McGahn was concerned about having any role in asking the Acting Attorney General to fire the Special Counsel because he had grown up in the Reagan era and wanted to be more like Judge

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568 @realDonaldTrump 6/15/17 (3:56 p.m. ET) Tweet.
569 @realDonaldTrump 6/16/17 (7:53 a.m. ET) Tweet.
570 @realDonaldTrump 6/16/17 (9:07 a.m. ET) Tweet.
571 McGahn 3/8/18 302, at 1-2; McGahn 12/14/17 302, at 10.
572 McGahn 3/8/18 302, at 1, 3; SCR026 000196 (President’s Daily Diary, 6/17/17) (records showing President departed the White House at 11:07 a.m. on June 17, 2017, and arrived at Camp David at 11:37 a.m.).
573 McGahn 3/8/18 302, at 1-2; McGahn 12/14/17 302, at 10. Phone records show that the President called McGahn in the afternoon on June 17, 2017, and they spoke for approximately 32 minutes. SCR026 000196 (President’s Daily Diary, 6/17/17) (reflecting call from the President to McGahn on 6/17/17 with start time 2:23 p.m. and end time 2:46 p.m.); (Call Records of Don McGahn). Phone records do not show another call between McGahn and the President that day. Although McGahn recalled receiving multiple calls from the President on the same day, in light of the phone records it thought it was possible that the first call instead occurred on June 14, 2017, shortly after the press reported that the President was under investigation for obstruction of justice. McGahn 2/28/19 302, at 1-3. While McGahn was not certain of the specific dates of the calls, McGahn was confident that he had at least two phone conversations with the President in which the President directed him to call the Acting Attorney General to have the Special Counsel removed. McGahn 2/28/19 302, at 1-3.
Robert Bork and not "Saturday Night Massacre Bork." McGahn considered the President’s request to be an inflection point and he wanted to hit the brakes.

When the President called McGahn a second time to follow up on the order to call the Department of Justice, McGahn recalled that the President was more direct, saying something like, "Call Rod, tell Rod that Mueller has conflicts and can’t be the Special Counsel." McGahn recalled the President telling him "Mueller has to go" and "Call me back when you do it." McGahn understood the President to be saying that the Special Counsel had to be removed by Rosenstein. To end the conversation with the President, McGahn left the President with the impression that McGahn would call Rosenstein. McGahn recalled that he had already said no to the President’s request and he was worn down, so he just wanted to get off the phone.

McGahn recalled feeling trapped because he did not plan to follow the President’s directive but did not know what he would say the next time the President called. McGahn decided he had to resign. He called his personal lawyer and then called his chief of staff, Annie Donaldson, to inform her of his decision. He then drove to the office to pack his belongings and submit his resignation letter. Donaldson recalled that McGahn told her the President had called and demanded he contact the Department of Justice and that the President wanted him to do something that McGahn did not want to do. McGahn told Donaldson that the President had called at least twice and in one of the calls asked "have you done it?" McGahn did not tell Donaldson the specifics of the President’s request because he was consciously trying not to involve her in the

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582 McGahn 3/8/18 302, at 2, 5; McGahn 2/28/19 302, at 3.
588 McGahn 3/8/18 302, at 2-3; McGahn 2/28/19 302, at 3; Donaldson 4/2/18 302, at 4; Call Records of Don McGahn.
590 Donaldson 4/2/18 302, at 4.
investigation, but Donaldson inferred that the President’s directive was related to the Russia investigation.592 Donaldson prepared to resign along with McGahn.593

That evening, McGahn called both Priebus and Bannon and told them that he intended to resign.594 McGahn recalled that, after speaking with his attorney and given the nature of the President’s request, he decided not to share details of the President’s request with other White House staff.595 Priebus recalled that McGahn said that the President had asked him to “do crazy shit,” but he thought McGahn did not tell him the specifics of the President’s request because McGahn was trying to protect Priebus from what he did not need to know.596 Priebus and Bannon both urged McGahn not to quit, and McGahn ultimately returned to work that Monday and remained in his position.597 He had not told the President directly that he planned to resign, and when they next saw each other the President did not ask McGahn whether he had followed through with calling Rosenstein.598

Around the same time, Chris Christie recalled a telephone call with the President in which the President asked what Christie thought about the President firing the Special Counsel.599 Christie advised against doing so because there was no substantive basis for the President to fire the Special Counsel, and because the President would lose support from Republicans in Congress if he did so.600

Analysis

In analyzing the President’s direction to McGahn to have the Special Counsel removed, the following evidence is relevant to the elements of obstruction of justice:

a. Obstructive act. As with the President’s firing of Comey, the attempt to remove the Special Counsel would qualify as an obstructive act if it would naturally obstruct the

592 McGahn 2/28/19 302, at 3-4; Donaldson 4/2/18 302, at 4-5. Donaldson said she believed McGahn consciously did not share details with her because he did not want to drag her into the investigation. Donaldson 4/2/18 302, at 5; see McGahn 2/28/19 302, at 3.

593 Donaldson 4/2/18 302, at 5.

594 McGahn 12/14/17 302, at 10; Call Records of Don McGahn; McGahn 2/28/19 302, at 3-4; Priebus 4/3/18 302, at 5-7.

595 McGahn 2/28/19 302, at 4. Priebus and Bannon confirmed that McGahn did not tell them the specific details of the President’s request. Priebus 4/3/18 302, at 7; Bannon 2/14/18 302, at 10.


597 McGahn 3/8/18 302, at 3; McGahn 2/28/19 302, at 3-4.


599 Christie 2/13/19 302, at 7. Christie did not recall the precise date of this call, but believed it was after Christopher Wray was announced as the nominee to be the new FBI director, which was on June 7, 2017. Christie 2/13/19 302, at 7. Telephone records show that the President called Christie twice after that time period, on July 4, 2017, and July 14, 2017. Call Records of Chris Christie.

600 Christie 2/13/19 302, at 7.
investigation and any grand jury proceedings that might flow from the inquiry. Even if the removal of the lead prosecutor would not prevent the investigation from continuing under a new appointee, a factfinder would need to consider whether the act had the potential to delay further action in the investigation, chill the actions of any replacement Special Counsel, or otherwise impede the investigation.

A threshold question is whether the President in fact directed McGahn to have the Special Counsel removed. After news organizations reported that in June 2017 the President had ordered McGahn to have the Special Counsel removed, the President publicly disputed these accounts, and privately told McGahn that he had simply wanted McGahn to bring conflicts of interest to the Department of Justice’s attention. See Volume II, Section II.1, infra. Some of the President’s specific language that McGahn recalled from the calls is consistent with that explanation. Substantial evidence, however, supports the conclusion that the President went further and in fact directed McGahn to call Rosenstein to have the Special Counsel removed.

First, McGahn’s clear recollection was that the President directed him to tell Rosenstein not only that conflicts existed but also that “Mueller has to go.” McGahn is a credible witness with no motive to lie or exaggerate given the position he held in the White House. McGahn spoke with the President twice and understood the directive the same way both times, making it unlikely that he misheard or misinterpreted the President’s request. In response to that request, McGahn decided to quit because he did not want to participate in events that he described as akin to the Saturday Night Massacre. He called his lawyer, drove to the White House, packed up his office, prepared to submit a resignation letter to his chief of staff, told Priebus that the President had asked him to “do crazy shit,” and informed Priebus and Bannon that he was leaving. Those acts would be a highly unusual reaction to a request to convey information to the Department of Justice.

Second, in the days before the calls to McGahn, the President, through his counsel, had already brought the asserted conflicts to the attention of the Department of Justice. Accordingly, the President had no reason to have McGahn call Rosenstein that weekend to raise conflicts issues that already had been raised.

Third, the President’s sense of urgency and repeated requests to McGahn to take immediate action on a weekend—“You gotta do this. You gotta call Rod.”—support McGahn’s recollection that the President wanted the Department of Justice to take action to remove the Special Counsel. Had the President instead sought only to have the Department of Justice re-examine asserted conflicts to evaluate whether they posed an ethical bar, it would have been unnecessary to set the process in motion or a Saturday and to make repeated calls to McGahn.

Finally, the President had discussed “knocking out Mueller” and raised conflicts of interest in a May 23, 2017 call with McGahn, reflecting that the President connected the conflicts to a plan to remove the Special Counsel. And in the days leading up to June 17, 2017, the President made clear to Priebus and Bannon, who then told Ruddy, that the President was considering terminating

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601 When this Office first interviewed McGahn about this topic, he was reluctant to share detailed information about what had occurred and only did so after continued questioning. See McGahn 12/14/17 302 (agent notes).
the Special Counsel. Also during this time period, the President reached out to Christie to get his thoughts on firing the Special Counsel. This evidence shows that the President was not just seeking an examination of whether conflicts existed but instead was looking to use asserted conflicts as a way to terminate the Special Counsel.

b. **Nexus to an official proceeding.** To satisfy the proceeding requirement, it would be necessary to establish a nexus between the President’s act of seeking to terminate the Special Counsel and a pending or foreseeable grand jury proceeding.

Substantial evidence indicates that by June 17, 2017, the President knew his conduct was under investigation by a federal prosecutor who could present any evidence of federal crimes to a grand jury. On May 23, 2017, McGahn explicitly warned the President that his “biggest exposure” was not his act of firing Comey but his “other contacts” and “calls,” and his “ask re: Flynn.” By early June, it was widely reported in the media that federal prosecutors had issued grand jury subpoenas in the Flynn inquiry and that the Special Counsel had taken over the Flynn investigation. On June 9, 2017, the Special Counsel’s Office informed the White House that investigators would be interviewing intelligence agency officials who allegedly had been asked by the President to push back against the Russia investigation. On June 14, 2017, news outlets began reporting that the President was himself being investigated for obstruction of justice. Based on widespread reporting, the President knew that such an investigation could include his request for Comey’s loyalty; his request that Comey “let[] Flynn go”; his outreach to Coats and Rogers; and his termination of Comey and statement to the Russian Foreign Minister that the termination had relieved “great pressure” related to Russia. And on June 16, 2017, the day before he directed McGahn to have the Special Counsel removed, the President publicly acknowledged that his conduct was under investigation by a federal prosecutor, tweeting, “I am being investigated for firing the FBI Director by the man who told me to fire the FBI Director!”

c. **Intent.** Substantial evidence indicates that the President’s attempts to remove the Special Counsel were linked to the Special Counsel’s oversight of investigations that involved the President’s conduct—and, most immediately, to reports that the President was being investigated for potential obstruction of justice.

Before the President terminated Comey, the President considered it critically important that he was not under investigation and that the public not erroneously think he was being investigated. As described in Volume II, Section H.D, *supra*, advisors perceived the President, while he was drafting the Comey termination letter, to be concerned more than anything else about getting out that he was not personally under investigation. When the President learned of the appointment of the Special Counsel on May 17, 2017, he expressed further concern about the investigation, saying “[t]his is the end of my Presidency.” The President also faulted Sessions for recusing, saying “you were supposed to protect me.”

On June 14, 2017, when the Washington Post reported that the Special Counsel was investigating the President for obstruction of justice, the President was facing what he had wanted

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to avoid: a criminal investigation into his own conduct that was the subject of widespread media attention. The evidence indicates that news of the obstruction investigation prompted the President to call McGahn and seek to have the Special Counsel removed. By mid-June, the Department of Justice had already cleared the Special Counsel’s service and the President’s advisors had told him that the claimed conflicts of interest were “silly” and did not provide a basis to remove the Special Counsel. On June 13, 2017, the Acting Attorney General testified before Congress that no good cause for removing the Special Counsel existed, and the President dictated a press statement to Sanders saying he had no intention of firing the Special Counsel. But the next day, the media reported that the President was under investigation for obstruction of justice and the Special Counsel was interviewing witnesses about events related to possible obstruction—spurring the President to write critical tweets about the Special Counsel’s investigation. The President called McGahn at home that night and then called him on Saturday from Camp David. The evidence accordingly indicates that news that an obstruction investigation had been opened is what led the President to call McGahn to have the Special Counsel terminated.

There also is evidence that the President knew that he should not have made those calls to McGahn. The President made the calls to McGahn after McGahn had specifically told the President that the White House Counsel’s Office—and McGahn himself—could not be involved in pressing conflicts claims and that the President should consult with his personal counsel if he wished to raise conflicts. Instead of relying on his personal counsel to submit the conflicts claims, the President sought to use his official powers to remove the Special Counsel. And after the media reported on the President’s actions, he denied that he ever ordered McGahn to have the Special Counsel terminated and made repeated efforts to have McGahn deny the story, as discussed in Volume II, Section II.I, infra. Those denials are contrary to the evidence and suggest the President’s awareness that the direction to McGahn could be seen as improper.

F. The President’s Efforts to Curtail the Special Counsel Investigation

Overview

Two days after the President directed McGahn to have the Special Counsel removed, the President made another attempt to affect the course of the Russia investigation. On June 19, 2017, the President met one-on-one with Corey Lewandowski in the Oval Office and dictated a message to be delivered to Attorney General Sessions that would have had the effect of limiting the Russia investigation to future election interference only. One month later, the President met again with Lewandowski and followed up on the request to have Sessions limit the scope of the Russia investigation. Lewandowski told the President the message would be delivered soon. Hours later, the President publicly criticized Sessions in an unplanned press interview, raising questions about Sessions’s job security.

1. The President Asks Corey Lewandowski to Deliver a Message to Sessions to Curtail the Special Counsel Investigation

On June 19, 2017, two days after the President directed McGahn to have the Special Counsel removed, the President met one-on-one in the Oval Office with his former campaign