dictated a statement to be released by Trump Jr. in response to the first press accounts of the June 9 meeting that said the meeting was about adoption.

But as described above, the evidence does not establish that the President intended to prevent the Special Counsel’s Office or Congress from obtaining the emails setting up the June 9 meeting or other information about that meeting. The statement recorded by Corallo—that the emails “will never get out”—can be explained as reflecting a belief that the emails would not be made public if the President’s press strategy were followed, even if the emails were provided to Congress and the Special Counsel.

H. The President’s Further Efforts to Have the Attorney General Take Over the Investigation

Overview

From summer 2017 through 2018, the President attempted to have Attorney General Sessions reverse his recusal, take control of the Special Counsel’s investigation, and order an investigation of Hillary Clinton.

Evidence

1. The President Again Seeks to Have Sessions Reverse his Recusal

After returning Sessions’s resignation letter at the end of May 2017, but before the President’s July 19, 2017 New York Times interview in which he publicly criticized Sessions for recusing from the Russia investigation, the President took additional steps to have Sessions reverse his recusal. In particular, at some point after the May 17, 2017 appointment of the Special Counsel, Sessions recalled, the President called him at home and asked if Sessions would “unrecuse” himself.736 According to Sessions, the President asked him to reverse his recusal so that Sessions could direct the Department of Justice to investigate and prosecute Hillary Clinton, and the “gist” of the conversation was that the President wanted Sessions to unrecuse from “all of it,” including the Special Counsel’s Russia investigation.737 Sessions listened but did not respond, and he did not reverse his recusal or order an investigation of Clinton.738

In early July 2017, the President asked Staff Secretary Rob Porter what he thought of Associate Attorney General Rachel Brand.739 Porter recalled that the President asked him if Brand was good, tough, and “on the team.”740 The President also asked if Porter thought Brand was interested in being responsible for the Special Counsel’s investigation and whether she would want

736 Sessions 1/17/18 302, at 15. That was the second time that the President asked Sessions to reverse his recusal from campaign-related investigations. See Volume II, Section II.C.1, supra (describing President’s March 2017 request at Mar-a-Lago for Sessions to unrecuse).

737 Sessions 1/17/18 302, at 15.

738 Sessions 1/17/18 302, at 15.


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to be Attorney General one day.\footnote{Porter 4/13/18 302, at 11; Porter 5/8/18 302, at 6.} Because Porter knew Brand, the President asked him to sound her out about taking responsibility for the investigation and being Attorney General.\footnote{Porter 4/13/18 302, at 11; Porter 5/8/18 302, at 6.} 

Contemporaneous notes taken by Porter show that the President told Porter to “Keep in touch with your friend,” in reference to Brand.\footnote{SC_RRP00020 (Porter 7/10/17 Notes).} Later, the President asked Porter a few times in passing whether he had spoken to Brand, but Porter did not reach out to her because he was uncomfortable with the task.\footnote{Porter 4/13/18 302, at 11-12.} In asking him to reach out to Brand, Porter understood the President to want to find someone to end the Russia investigation or fire the Special Counsel, although the President never said so explicitly.\footnote{Porter 4/13/18 302, at 11-12.} Porter did not contact Brand because he was sensitive to the implications of that action and did not want to be involved in a chain of events associated with an effort to end the investigation or fire the Special Counsel.\footnote{Porter 4/13/18 302, at 11-12.}

McGahn recalled that during the summer of 2017, he and the President discussed the fact that if Sessions were no longer in his position the Special Counsel would report directly to a non-recused Attorney General.\footnote{Porter 4/13/18 302, at 11; Porter 5/8/18 302, at 6.} McGahn told the President that things might not change much under a new Attorney General.\footnote{McGahn 12/14/17 302, at 11.} McGahn also recalled that in or around July 2017, the President frequently brought up his displeasure with Sessions.\footnote{McGahn 12/14/17 302, at 11.} Hicks recalled that the President viewed Sessions’s recusal from the Russia investigation as an act of disloyalty.\footnote{Hicks 3/13/18 302, at 10.} In addition to criticizing Sessions’s recusal, the President raised other concerns about Sessions and his job performance with McGahn and Hicks.\footnote{McGahn 12/14/17 302, at 11; Hicks 3/13/18 302, at 10.}
2. **Additional Efforts to Have Sessions Unrecuse or Direct Investigations Covered by his Recusal**

Later in 2017, the President continued to urge Sessions to reverse his recusal from campaign-related investigations and considered replacing Sessions with an Attorney General who would not be recused.

On October 16, 2017, the President met privately with Sessions and said that the Department of Justice was not investigating individuals and events that the President thought the Department should be investigating.\(^{752}\) According to contemporaneous notes taken by Porter, who was at the meeting, the President mentioned Clinton’s emails and said, “Don’t have to tell us, just take [a] look.”\(^{753}\) Sessions did not offer any assurances or promises to the President that the Department of Justice would comply with that request.\(^{754}\) Two days later, on October 18, 2017, the President tweeted, “Wow, FBI confirms report that James Comey drafted letter exonerating Crooked Hillary Clinton long before investigation was complete. Many people not interviewed, including Clinton herself. Comey stated under oath that he didn’t do this-obviously a fix? Where is Justice Dept?”\(^{755}\) On October 29, 2017, the President tweeted that there was “ANGER & UNITY” over a “lack of investigation” of Clinton and “the Comey fix,” and concluded: “DO SOMETHING!”\(^{756}\)

On December 6, 2017, five days after Flynn pleaded guilty to lying about his contacts with the Russian government, the President asked to speak with Sessions in the Oval Office at the end of a cabinet meeting.\(^{757}\) During that Oval Office meeting, which Porter attended, the President again suggested that Sessions could “unrecuse,” which Porter linked to taking back supervision of the Russia investigation and directing an investigation of Hillary Clinton.\(^{758}\) According to contemporaneous notes taken by Porter, the President said, “I don’t know if you could un-recuse yourself. You’d be a hero. Not telling you to do anything. Dershowitz says POTUS can get involved. Can order AG to investigate. I don’t want to get involved. I’m not going to get involved. I’m not going to do anything or direct you to do anything. I just want to be treated fairly.”\(^{759}\) According to Porter’s notes, Sessions responded, “We are taking steps; whole new leadership

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\(^{752}\) Porter 5/8/18 302, at 10.

\(^{753}\) SC_RRP000024 (Porter 10/16/17 Notes); see Porter 5/8/18 302, at 10.

\(^{754}\) Porter 5/8/18 302, at 10.

\(^{755}\) @realDonaldTrump 10/18/17 (6:21 a.m. ET) Tweet; @realDonaldTrump 10/18/17 (6:27 a.m. ET) Tweet.

\(^{756}\) @realDonaldTrump 10/29/17 (9:53 a.m. ET) Tweet; @realDonaldTrump 10/29/17 (10.02 a.m. ET) Tweet; @realDonaldTrump 10/29/17 (10:17 a.m. ET) Tweet.

\(^{757}\) Porter 4/13/18 302, at 5-6; see SC_RRP000031 (Porter 12/6/17 Notes) (“12:45pm With the President, Gen. Kelly, and Sessions (who I pulled in after the Cabinet meeting)’’); SC_RRP000033 (Porter 12/6/17 Notes) (“Post-cabinet meeting – POTUS asked me to get AG Sessions. Asked me to stay. Also COS Kelly.’’).

\(^{758}\) Porter 5/8/18 302, at 12; Porter 4/13/18 302, at 5-6.

\(^{759}\) SC_RRP000033 (Porter 12/6/17 Notes); see Porter 4/13/18 302, at 6; Porter 5/8/18 302, at 12.
team. Professionals; will operate according to the law.” Sessions also said, “I never saw anything that was improper,” which Porter thought was noteworthy because it did not fit with the previous discussion about Clinton. Porter understood Sessions to be reassuring the President that he was on the President’s team.

At the end of December, the President told the New York Times it was “too bad” that Sessions had recused himself from the Russia investigation. When asked whether Holder had been a more loyal Attorney General to President Obama than Sessions was to him, the President said, “I don’t want to get into loyalty, but I will tell you that, I will say this: Holder protected President Obama. Totally protected him. When you look at the things that they did, and Holder protected the president. And I have great respect for that, I’ll be honest.” Later in January, the President brought up the idea of replacing Sessions and told Porter that he wanted to “clean house” at the Department of Justice. In a meeting in the White House residence that Porter attended on January 27, 2018, Porter recalled that the President talked about the great attorneys he had in the past with successful win records, such as Roy Cohn and Jay Goldberg, and said that one of his biggest failings as President was that he had not surrounded himself with good attorneys, citing Sessions as an example. The President raised Sessions’s recusal and brought up and criticized the Special Counsel’s investigation.

Over the next several months, the President continued to criticize Sessions in tweets and media interviews and on several occasions appeared to publicly encourage him to take action in the Russia investigation despite his recusal. On June 5, 2018, for example, the President

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760 SC_RRP000033 (Porter 12/6/17 Notes); see Porter 4/13/18 302, at 6.
761 SC_RRP000033 (Porter 12/6/17 Notes); Porter 4/13/18 302, at 6.
762 Porter 4/13/18 302, at 6-7.
768 See, e.g., @realDonaldTrump 2/28/18 (9:34 a.m. ET) Tweet (“Why is A.G. Jeff Sessions asking the Inspector General to investigate potentially massive FISA abuse. Will take forever, has no prosecutorial power and already late with reports on Comey etc. Isn’t the I.G. an Obama guy? Why not use Justice Department lawyers? DISGRACEFUL!”); @realDonaldTrump 4/7/18 (4:52 p.m. ET) Tweet (“Lawmakers of the House Judiciary Committee are angrily accusing the Department of Justice of missing the Thursday Deadline for turning over UNREDACTED Documents relating to FISA abuse, FBI, Comey, Lynch, McCabe, Clinton Emails and much more. Slow walking — what is going on? BAD!”); @realDonaldTrump 4/22/18 (8:22 a.m. ET) Tweet (“GOP Lawmakers asking Sessions to Investigate Comey and Hillary Clinton.” @FoxNews Good luck with that request!”); @realDonaldTrump 12/16/18 (3:37 p.m. ET) Tweet
tweeted, “The Russian Witch Hunt Hoax continues, all because Jeff Sessions didn’t tell me he was going to recuse himself. . . . I would have quickly picked someone else. So much time and money wasted, so many lives ruined . . . and Sessions knew better than most that there was No Collusion!” On August 1, 2018, the President tweeted that “Attorney General Jeff Sessions should stop this Rigged Witch Hunt right now.” On August 23, 2018, the President publicly criticized Sessions in a press interview and suggested that prosecutions at the Department of Justice were politically motivated because Paul Manafort had been prosecuted but Democrats had not. The President said, “I put in an Attorney General that never took control of the Justice Department, Jeff Sessions.” That day, Sessions issued a press statement that said, “I took control of the Department of Justice the day I was sworn in . . . While I am Attorney General, the actions of the Department of Justice will not be improperly influenced by political considerations.” The next day, the President tweeted a response: “Department of Justice will not be improperly influenced by political considerations.” Jeff, this is GREAT, what everyone wants, so look into all of the corruption on the ‘other side’ including deleted Emails, Comey lies & leaks, Mueller conflicts, McCabe, Strzok, Page, Ohr, FISA abuse, Christopher Steele & his phony and corrupt Dossier, the Clinton Foundation, illegal surveillance of Trump campaign, Russian collusion by Dems – and so much more. Open up the papers & documents without redaction? Come on Jeff, you can do it, the country is waiting!”

On November 7, 2018, the day after the midterm elections, the President replaced Sessions with Sessions’s chief of staff as Acting Attorney General.

**Analysis**

In analyzing the President’s efforts to have Sessions unrecuse himself and regain control of the Russia investigation, the following considerations and evidence are relevant to the elements of obstruction of justice:

a. **Obstructive act.** To determine if the President’s efforts to have the Attorney General unrecuse could qualify as an obstructive act, it would be necessary to assess evidence on whether those actions would naturally impede the Russia investigation. That inquiry would take into account the supervisory role that the Attorney General, if unrecused, would play in the Russia investigation. It also would have to take into account that the Attorney General’s recusal covered

("Jeff Sessions should be ashamed of himself for allowing this total HOAX to get started in the first place!").

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769 @realDonaldTrump 6/5/18 (7:31 a.m. ET) Tweet.
770 @realDonaldTrump 8/1/18 (9:24 a.m. ET) Tweet.
771 Fox & Friends Interview of President Trump, Fox News (Aug. 23, 2018).
772 Fox & Friends Interview of President Trump, Fox News (Aug. 23, 2018).
774 @realDonaldTrump 8/24/18 (6:17 a.m. ET) Tweet; @realDonaldTrump 8/24/18 (6:28 a.m. ET) Tweet.
775 @realDonaldTrump 11/7/18 (2:44 p.m. ET) Tweet.
other campaign-related matters. The inquiry would not turn on what Attorney General Sessions would actually do if unrecused, but on whether the efforts to reverse his recusal would naturally have had the effect of impairing the Russia investigation.

On multiple occasions in 2017, the President spoke with Sessions about reversing his recusal so that he could take over the Russia investigation and begin an investigation and prosecution of Hillary Clinton. For example, in early summer 2017, Sessions recalled the President asking him to unrecuse, but Sessions did not take it as a directive. When the President raised the issue again in December 2017, the President said, as recorded by Porter, “Not telling you to do anything. . . . I’m not going to get involved. I’m not going to do anything or direct you to do anything. I just want to be treated fairly.” The duration of the President’s efforts—which spanned from March 2017 to August 2018—and the fact that the President repeatedly criticized Sessions in public and in private for failing to tell the President that he would have to recuse is relevant to assessing whether the President’s efforts to have Sessions unrecuse could qualify as obstructive acts.

b. Nexus to an official proceeding. As described above, by mid-June 2017, the existence of a grand jury investigation supervised by the Special Counsel was public knowledge. In addition, in July 2017, a different grand jury supervised by the Special Counsel was empaneled in the District of Columbia, and the press reported on the existence of this grand jury in early August 2017.776 Whether the conduct towards the Attorney General would have a foreseeable impact on those proceedings turns on much of the same evidence discussed above with respect to the obstructive-act element.

c. Intent. There is evidence that at least one purpose of the President’s conduct toward Sessions was to have Sessions assume control over the Russia investigation and supervise it in a way that would restrict its scope. By the summer of 2017, the President was aware that the Special Counsel was investigating him personally for obstruction of justice. And in the wake of the disclosures of emails about the June 9 meeting between Russians and senior members of the campaign, see Volume II, Section II.G, supra, it was evident that the investigation into the campaign now included the President’s son, son-in-law, and former campaign manager. The President had previously and unsuccessfully sought to have Sessions publicly announce that the Special Counsel investigation would be confined to future election interference. Yet Sessions remained recused. In December 2017, shortly after Flynn pleaded guilty, the President spoke to Sessions in the Oval Office with only Porter present and told Sessions that he would be a hero if he unrecused. Porter linked that request to the President’s desire that Sessions take back supervision of the Russia investigation and direct an investigation of Hillary Clinton. The President said in that meeting that he “just want[ed] to be treated fairly,” which could reflect his perception that it was unfair that he was being investigated while Hillary Clinton was not. But a principal effect of that act would be to restore supervision of the Russia investigation to the Attorney General—a position that the President frequently suggested should be occupied by someone like Eric Holder and Bobby Kennedy, who the President described as protecting their

presidents. A reasonable inference from those statements and the President’s actions is that the President believed that an unelected Attorney General would play a protective role and could shield the President from the ongoing Russia investigation.

I. The President Orders McGahn to Deny that the President Tried to Fire the Special Counsel

Overview

In late January 2018, the media reported that in June 2017 the President had ordered McGahn to have the Special Counsel fired based on purported conflicts of interest but McGahn had refused, saying he would quit instead. After the story broke, the President, through his personal counsel and two aides, sought to have McGahn deny that he had been directed to remove the Special Counsel. Each time he was approached, McGahn responded that he would not refute the press accounts because they were accurate in reporting on the President’s effort to have the Special Counsel removed. The President later personally met with McGahn in the Oval Office with only the Chief of Staff present and tried to get McGahn to say that the President never ordered him to fire the Special Counsel. McGahn refused and insisted his memory of the President’s direction to remove the Special Counsel was accurate. In that same meeting, the President challenged McGahn for taking notes of his discussions with the President and asked why he had told Special Counsel investigators that he had been directed to have the Special Counsel removed.

Evidence

1. The Press Reports that the President Tried to Fire the Special Counsel

On January 25, 2018, the New York Times reported that in June 2017, the President had ordered McGahn to have the Department of Justice fire the Special Counsel.\textsuperscript{777} According to the article, “\textquoteleft\textquoteleft[\textquoteleft;mid the first wave of news media reports that Mr. Mueller was examining a possible obstruction case, the president began to argue that Mr. Mueller had three conflicts of interest that disqualified him from overseeing the investigation,’’\textsuperscript{778} The article further reported that “\textquoteleft\textquoteleft[a]fter receiving the president’s order to fire Mr. Mueller, the White House counsel . . . refused to ask the Justice Department to dismiss the special counsel, saying he would quit instead.’’\textsuperscript{779} The article stated that the president “ultimately backed down after the White House counsel threatened to resign rather than carry out the directive.’’\textsuperscript{780} After the article was published, the President


\textsuperscript{780} Michael S. Schmidt & Maggie Haberman, Trump Ordered Mueller Fired, but Backed Off When White House Counsel Threatened to Quit, New York Times (Jan. 25. 2018).