Finally, the President’s effort to have McFarland write an internal email denying that the President had directed Flynn to discuss sanctions with Kislyak highlights the President’s concern about being associated with Flynn’s conduct. The evidence does not establish that the President was trying to have McFarland lie. The President’s request, however, was sufficiently irregular that McFarland—who did not know the full extent of Flynn’s communications with the President and thus could not make the representation the President wanted—felt the need to draft an internal memorandum documenting the President’s request, and Eisenberg was concerned that the request would look like a quid pro quo in exchange for an ambassadorship.

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

Overview

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

Evidence

1. Attorney General Sessions Recuses From the Russia Investigation

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

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

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273 Sessions 1:17/18 302, at 1; Hunt 2/1/18 302, at 3.
274 E.g., Adam Entous et al., Sessions met with Russian envoy twice last year, encounters he later did not disclose, Washington Post (Mar. 1, 2017).
275 3/1/17 Email, Comey to Rybicki; SCR012b_000030 (President’s Daily Diary, 3/1/17, reflecting call with Comey at 11:55 am.)
276 3/1/17 Email, Comey to Rybicki; see Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (CQ Cong. Transcripts, at 86) (testimony
interpreted the call as an effort by the President to “pull [him] in,” but he did not perceive the call as an attempt by the President to find out what Comey was doing with the Flynn investigation.277

The next morning, the President called McGahn and urged him to contact Sessions to tell him not to recuse himself from the Russia investigation.278 McGahn understood the President to be concerned that a recusal would make Sessions look guilty for omitting details in his confirmation hearing; leave the President unprotected from an investigation that could hobble the presidency and derail his policy objectives; and detract from favorable press coverage of a Presidential Address to Congress the President had delivered earlier in the week.279 McGahn reached out to Sessions and reported that the President was not happy about the possibility of recusal.280 Sessions replied that he intended to follow the rules on recusal.281 McGahn reported back to the President about the call with Sessions, and the President reiterated that he did not want Sessions to recuse.282 Throughout the day, McGahn continued trying on behalf of the President to avert Sessions’s recusal by speaking to Sessions’s personal counsel, Sessions’s chief of staff, and Senate Majority Leader Mitch McConnell, and by contacting Sessions himself two more times.283 Sessions recalled that other White House advisors also called him that day to argue against his recusal.284

That afternoon, Sessions announced his decision to recuse “from any existing or future investigations of any matters related in any way to the campaigns for President of the United States.”285 Sessions believed the decision to recuse was not a close call, given the applicable

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278 McGahn 11/30/17 302, at 16.
279 McGahn 11/30/17 302, at 16-17; see SC_AD_00123 (Donaldson 3/2/17 Notes) (“Just in the middle of another Russia Fiasco.”).
280 Sessions 1/17/18 302, at 3.
281 McGahn 11/30/17 302, at 17.
282 McGahn 11/30/17 302, at 17.
283 McGahn 11/30/17 302, at 18-19; Sessions 1/17/18 302, at 3; Hunt 2/1/18 302, at 4; Donaldson 11/6/17 302, at 8-10; see Hunt-000017; SC_AD_00121 (Donaldson 3/2/17 Notes).
284 Sessions 1/17/18 302, at 3.
285 Attorney General Sessions Statement on Recusal, Department of Justice Press Release (Mar. 2, 2017) (“During the course of the last several weeks, I have met with the relevant senior career Department officials to discuss whether I should recuse myself from any matters arising from the campaigns for President of the United States. Having concluded those meetings today, I have decided to recuse myself from any existing or future investigations of any matters related in any way to the campaigns for President of the United States.”). At the time of Sessions’s recusal, Dana Boente, then the Acting Deputy Attorney General and U.S. Attorney for the Eastern District of Virginia, became the Acting Attorney General for campaign-related matters pursuant to an executive order specifying the order of succession at the Department of Justice. Id. (“Consistent with the succession order for the Department of Justice, . . . Dana Boente shall act as and perform the functions of the Attorney General with respect to any matters from
language in the Code of Federal Regulations (CFR), which Sessions considered to be clear and
decisive. Sessions thought that any argument that the CFR did not apply to him was “very
thin.” Sessions got the impression, based on calls he received from White House officials, that
the President was very upset with him and did not think he had done his duty as Attorney
General.

Shortly after Sessions announced his recusal, the White House Counsel’s Office directed
that Sessions should not be contacted about the matter. Internal White House Counsel’s Office
notes from March 2, 2017, state “No contact w/Sessions” and “No comms / Serious concerns about
obstruction.”

On March 3, the day after Sessions’s recusal, McGahn was called into the Oval Office. Other
advisors were there, including Priebus and Bannon. The President opened the conversation by saying, “I don’t have a lawyer.” The President expressed anger at McGahn about the recusal and brought up Roy Cohn, stating that he wished Cohn was his attorney. McGahn interpreted this comment as directed at him, suggesting that Cohn would fight for the

which I have recused myself to the extent they exist.”); see Exec. Order No. 13775, 82 Fed. Reg. 10697

Sessions 1/17/18 302, at 1-2. 28 C.F.R. § 45.2 provides that “no employee shall participate in a
criminal investigation or prosecution if he has a personal or political relationship with . . . any person or
organization substantially involved in the conduct that is the subject of the investigation or prosecution,” and defines “political relationship” as “a close identification with an elected official, a candidate (whether
or not successful) for elective, public office, a political party, or a campaign organization, arising from
service as a principal adviser thereto or a principal official thereof.”

Sessions 1/17/18 302, at 2.

Sessions 1/17/18 302, at 3.

Donaldson 11/6/17 302, at 11; SC_AD_00123 (Donaldson 3/2/17 Notes). It is not clear whether
the President was aware of the White House Counsel’s Office direction not to contact Sessions about his
recusal.

SC_AD_00123 (Donaldson 3/2/17 Notes). McGahn said he believed the note “No comms / Serious
concerns about obstruction” may have referred to concerns McGahn had about the press team
saying “crazy things” and trying to spin Sessions’s recusal in a way that would raise concerns about
obstruction. McGahn 11/30/17 302, at 19. Donaldson recalled that “No comms” referred to the order that
no one should contact Sessions. Donaldson 11/6/17 302, at 11.

McGahn 12/12/17 302, at 2.

McGahn 12/12/17 302, at 2.

McGahn 12/12/17 302, at 2.

McGahn 12/12/17 302, at 2. Cohn had previously served as a lawyer for the President during
his career as a private businessman. Priebus recalled that when the President talked about Cohn, he said
Cohn would win cases for him that had no chance, and that Cohn had done incredible things for him.
Priebus 4/3/18 302, at 5. Bannon recalled the President describing Cohn as a winner and a fixer, someone
President whereas McGahn would not. The President wanted McGahn to talk to Sessions about the recusal, but McGahn told the President that DOJ ethics officials had weighed in on Sessions’s decision to recuse. The President then brought up former Attorneys General Robert Kennedy and Eric Holder and said that they had protected their presidents. The President also pushed back on the DOJ contacts policy, and said words to the effect of, “You’re telling me that Bobby and Jack didn’t talk about investigations? Or Obama didn’t tell Eric Holder who to investigate?” Bannon recalled that the President was as mad as Bannon had ever seen him and that he screamed at McGahn about how weak Sessions was. Bannon recalled telling the President that Session’s recusal was not a surprise and that before the inauguration they had discussed that Sessions would have to recuse from campaign-related investigations because of his work on the Trump Campaign.

That weekend, Sessions and McGahn flew to Mar-a-Lago to meet with the President. Sessions recalled that the President pulled him aside to speak to him alone and suggested that Sessions should “unrecuse” from the Russia investigation. The President contrasted Sessions with Attorneys General Holder and Kennedy, who had developed a strategy to help their presidents where Sessions had not. Sessions said he had the impression that the President feared that the investigation could spin out of control and disrupt his ability to govern, which Sessions could have helped avert if he were still overseeing it.

On March 5, 2017, the White House Counsel’s Office was informed that the FBI was asking for transition-period records relating to Flynn—indicating that the FBI was still actively investigating him. On March 6, the President told advisors he wanted to call the Acting Attorney

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295 McGahn 12/12/17 302, at 2.
296 McGahn 12/12/17 302, at 2.
297 McGahn 12/12/17 302, at 3. Bannon said the President saw Robert Kennedy and Eric Holder as Attorneys General who protected the presidents they served. The President thought Holder always stood up for President Obama and even took a contempt charge for him, and Robert Kennedy always had his brother’s back. Bannon 2/14/18 302, at 5. Priebus recalled that the President said he had been told his entire life he needed to have a great lawyer, a “bulldog,” and added that Holder had been willing to take a contempt-of-Congress charge for President Obama. Priebus 4/3/18 302, at 5.
298 McGahn 12/12/17 302, at 3.
299 Bannon 2/14/18 302, at 5.
300 Bannon 2/14/18 302, at 5.
301 Sessions 1/17/18 302, at 3; Hunt 2/1/18 302, at 5; McGahn 12/12/17 302, at 3.
302 Sessions 1/17/18 302, at 3-4.
303 Sessions 1/17/18 302, at 3-4
304 Sessions 1/7/18 302, at 3-4. Hicks recalled that after Sessions recused, the President was angry and scolded Sessions in her presence, but she could not remember exactly when that conversation occurred. Hicks 12/8/17 302, at 13.
305 SC_AD_000137 (Donaldson 3/5/17 Notes); see Donaldson 11/6/17 302, at 13.
General to find out whether the White House or the President was being investigated, although it is not clear whether the President knew at that time of the FBI’s recent request concerning Flynn.306

2. FBI Director Comey Publicly Confirms the Existence of the Russia Investigation in Testimony Before HPSCI

On March 9, 2017, Comey briefed the “Gang of Eight” congressional leaders about the FBI’s investigation of Russian interference, including an identification of the principal U.S. subjects of the investigation.307 Although it is unclear whether the President knew of that briefing at the time, notes taken by Annie Donaldson, then McGahn’s chief of staff, on March 12, 2017, state, “POTUS in panic/chaos . . . Need binders to put in front of POTUS. (1) All things related to Russia.”308 The week after Comey’s briefing, the White House Counsel’s Office was in contact with SSCI Chairman Senator Richard Burr about the Russia investigations and appears to have received information about the status of the FBI investigation.309

On March 20, 2017, Comey was scheduled to testify before HPSCI.310 In advance of Comey’s testimony, congressional officials made clear that they wanted Comey to provide information about the ongoing FBI investigation.311 Dana Boente, who at that time was the Acting Attorney General for the Russia investigation, authorized Comey to confirm the existence of the Russia investigation and agreed that Comey should decline to comment on whether any particular individuals, including the President, were being investigated.312

306 Donaldson 11/6/17 302, at 14; see SC_AD_000168 (Donaldson 3/6/17 Notes) (“POTUS wants to call Dana [then the Acting Attorney General for campaign-related investigations] / Is Investigation / No / We know something on Flynn / GSA got contacted by FBI / There’s something hot”).

307 Comey 11/15/17 302, at 13-14; SNS-Classified-0000140-44 (3/8/17 Email, Gauhar to Page et al.).

308 SC_AD_0C188 (Donaldson 3/12/18 Notes). Donaldson said she was not part of the conversation that led to these notes, and must have been told about it from others. Donaldson 11/6/17 302, at 13.

309 Donaldson 11/6/17 302, at 14-15. On March 16, 2017, the White House Counsel’s Office was briefed by Senator Burr on the existence of “4-5 targets.” Donaldson 11/6/17 302, at 15. The “targets” were identified in notes taken by Donaldson as “Flynn (FBI was in—wrapping up) → DOJ looking for phone records”; “Comey—Manafort (Ukr + Russia, not campaign)”; “Carter Page ($ game)”; and “Greek Guy” (potentially referring to George Papadopoulos, later charged with violating 18 U.S.C. § 1001 for lying to the FBI). SC_AD_00198 (Donaldson 3/16/17 Notes). Donaldson and McGahn both said they believed these were targets of SSCI. Donaldson 11/6/17 302, at 15; McGahn 12/12/17 302, at 4. But SSCI does not formally investigate individuals as “targets”; the notes on their face reference the FBI, the Department of Justice, and Comey, and the notes track the background materials prepared by the FBI for Comey’s briefing to the Gang of 8 on March 9. See SNS-Classified-0000140-44 (3/8/17 Email, Gauhar to Page et al.); see also Donaldson 11/6/17 302, at 15 (Donaldson could not rule out that Burr had told McGahn those individuals were the FBI’s targets).

310 Hearing on Russian Election Tampering Before the House Permanent Select Intelligence Committee, 115th Corg. (Mar. 20, 2017).

311 Comey 11/15/17 302, at 16; McCabe 8/17/17, at 15; McGahn 12/14/17 302, at 1.

312 Boente 1/31/18 302, at 5; Comey 11/15/17 302, at 16-17.
In his opening remarks at the HPSCI hearing, which were drafted in consultation with the Department of Justice, Comey stated that he had "been authorized by the Department of Justice to confirm that the FBI, as part of [its] counterintelligence mission, is investigating the Russian government’s efforts to interfere in the 2016 presidential election and that includes investigating the nature of any links between individuals associated with the Trump campaign and the Russian government and whether there was any coordination between the campaign and Russia’s efforts. As with any counterintelligence investigation, this will also include an assessment of whether any crimes were committed."³¹³ Comey added that he would not comment further on what the FBI was "doing and whose conduct [it] [was] examining" because the investigation was ongoing and classified—but he observed that he had "taken the extraordinary step in consultation with the Department of Justice of briefing this Congress’s leaders . . . in a classified setting in detail about the investigation."³¹⁴ Comey was specifically asked whether President Trump was "under investigation during the campaign" or "under investigation now."³¹⁵ Comey declined to answer, stating, "Please don’t over interpret what I’ve said as—as the chair and ranking know, we have briefed him in great detail on the subjects of the investigation and what we’re doing, but I’m not gonna answer about anybody in this forum."³¹⁶ Comey was also asked whether the FBI was investigating the information contained in the Steele reporting, and he declined to answer.³¹⁷

According to McGahn and Donaldson, the President had expressed frustration with Comey before his March 20 testimony, and the testimony made matters worse.³¹⁸ The President had previously criticized Comey for too frequently making headlines and for not attending intelligence briefings at the White House, and the President suspected Comey of leaking certain information to the media.³¹⁹ McGahn said the President thought Comey was acting like "his own branch of government."³²⁰

³¹³ Hearing on Russian Election Tampering Before the House Permanent Select Intelligence Committee, 115th Cong. (Mar. 20, 2017) (CQ Cong. Transcripts, at 11) (testimony by FBI Director James B. Comey); Comey 11/15/17 302, at 17; Boente 1/31/18 302, at 5 (confirming that the Department of Justice authorized Comey’s remarks).


³¹⁶ Hearing on Russian Election Tampering Before the House Permanent Select Intelligence Committee, 115th Cong. (Mar. 20, 2017) (CQ Cong. Transcripts, at 130) (testimony by FBI Director James B. Comey).

³¹⁷ Hearing on Russian Election Tampering Before the House Permanent Select Intelligence Committee, 115th Cong. (Mar. 20, 2017) (CQ Cong. Transcripts, at 143) (testimony by FBI Director James B. Comey).

³¹⁸ Donaldson 11/6/17 302, at 21; McGahn 12/12/17 302, at 7.

³¹⁹ Donaldson 11/6/17 302, at 21; McGahn 12/12/17 302, at 6-9.

³²⁰ McGahn 12/12/17 302, at 7.
Press reports following Comey’s March 20 testimony suggested that the FBI was investigating the President, contrary to what Comey had told the President at the end of the January 6, 2017 intelligence assessment briefing. McGahn, Donaldson, and senior advisor Stephen Miller recalled that the President was upset with Comey’s testimony and the press coverage that followed because of the suggestion that the President was under investigation. Notes from the White House Counsel’s Office dated March 21, 2017, indicate that the President was “beside himself” over Comey’s testimony. The President called McGahn repeatedly that day to ask him to intervene with the Department of Justice, and, according to the notes, the President was “getting hotter and hotter, get rid?!” Officials in the White House Counsel’s Office became so concerned that the President would fire Comey that they began drafting a memorandum that examined whether the President needed cause to terminate the FBI director.

At the President’s urging, McGahn contacted Boente several times on March 21, 2017, to seek Boente’s assistance in having Comey or the Department of Justice correct the misperception that the President was under investigation. Boente did not specifically recall the conversations, although he did remember one conversation with McGahn around this time where McGahn asked if there was a way to speed up or end the Russia investigation as quickly as possible. Boente said McGahn told him the President was under a cloud and it made it hard for him to govern. Boente recalled telling McGahn that there was no good way to shorten the investigation and attempting to do so could erode confidence in the investigation’s conclusions. Boente said McGahn agreed and dropped the issue. The President also sought to speak with Boente directly, but McGahn told the President that Boente did not want to talk to the President about the request.

321 E.g., Matt Apuzzo et al., F.B.I. Is Investigating Trump’s Russia Ties, Comey Confirms, New York Times (Mar. 20, 2017); Andy Greenberg, The FBI Has Been Investigating Trump’s Russia Ties Since July, Wired (Mar. 20, 2017); Julie Bogor & Spencer Ackerman, Trump-Russia collusion is being investigated by FBI, Comey confirms, Guardian (Mar. 20, 2017); see Comey 1/6/17 Memorandum, at 2.

322 Donaldson 11/6/17 302, at 16-17; S. Miller 10/31/17 302, at 4; McGahn 12/12/17 302, at 5-7.

323 SC_AD_00213 (Donaldson 3/21/17 Notes). The notes from that day also indicate that the President referred to the “Comey bombshell” which “made [him] look like a fool.” SC_AD_00206 (Donaldson 3/21/17 Notes).

324 SC_AD_00210 (Donaldson 3/21/17 Notes).

325 SCR016 000002-05 (White House Counsel’s Office Memorandum). White House Counsel’s Office attorney Uttam Dhillon did not recall a triggering event causing the White House Counsel’s Office to begin this research. Dhillon 11/21/17 302, at 5. Metadata from the document, which was provided by the White House, establishes that it was created on March 21, 2017.


327 Boente 1/31/18 302, at 5.

328 Boente 1/31/18 302, at 5.

329 Boente 1/31/18 302, at 5.

330 Boente 1/31/18 302, at 5.
to intervene with Comey. McGahn recalled Boente telling him in calls that day that he did not think it was sustainable for Comey to stay on as FBI director for the next four years, which McGahn said he conveyed to the President. Boente did not recall discussing with McGahn or anyone else the idea that Comey should not continue as FBI director.

3. The President Asks Intelligence Community Leaders to Make Public Statements that he had No Connection to Russia

In the weeks following Comey’s March 20, 2017 testimony, the President repeatedly asked intelligence community officials to push back publicly on any suggestion that the President had a connection to the Russian election-interference effort.

On March 22, 2017, the President asked Director of National Intelligence Daniel Coats and CIA Director Mike Pompeo to stay behind in the Oval Office after a Presidential Daily Briefing. According to Coats, the President asked them whether they could say publicly that no link existed between him and Russia. Coats responded that the Office of the Director of National Intelligence (ODNI) has nothing to do with investigations and it was not his role to make a public statement on the Russia investigation. Pompeo had no recollection of being asked to stay behind after the March 22 briefing, but he recalled that the President regularly urged officials to get the word out that he had not done anything wrong related to Russia.

Coats told this Office that the President never asked him to speak to Comey about the FBI investigation. Some ODNI staffers, however, had a different recollection of how Coats described the meeting immediately after it occurred. According to senior ODNI official Michael Dempsey, Coats said after the meeting that the President had brought up the Russia investigation and asked him to contact Comey to see if there was a way to get past the investigation, get it over with, and that he was not involved with the FBI investigation. Edward Gistaro, another ODNI official, recalled

331 SC AD_00210 (Donaldson 3/21/17 Notes); McGahn 12/12/17 302, at 7; Donaldson 11/6/17 302, at 19.
332 McGahn 12/12/17 302, at 7; Burnham 11/03/17 302, at 11.
333 Boente 1/31/18 302, at 3.
334 Coats 6/14/17 302, at 3; Culver 6/14/17 302, at 2.
335 Coats 6/14/17 302, at 3.
336 Coats 6/14/17 302, at 3.
338 Coats 6/14/17 302, at 3.
339 Dempsey 6/14/17 302, at 2.
341 Dempsey 6/14/17 302, at 3.
that right after Coats’s meeting with the President, on the walk from the Oval Office back to the Eisenhower Executive Office Building, Coats said that the President had kept him behind to ask him what he could do to “help with the investigation.” Coats reported that he was upset because the President had asked him to contact Comey to convince him there was nothing to the Russia investigation.

On Saturday, March 25, 2017, three days after the meeting in the Oval Office, the President called Coats and again complained about the Russia investigations, saying words to the extent of, “I can’t do anything with Russia, there’s things I’d like to do with Russia, with trade, with ISIS, they’re all over me with this.” Coats told the President that the investigations were going to go on and the best thing to do was to let them run their course. Coats later testified in a congressional hearing that he had “never felt pressure to intervene or interfere in any way and shape—with shaping intelligence in a political way, or in relationship . . . to an ongoing investigation.”

On March 26, 2017, the day after the President called Coats, the President called NSA Director Admiral Michael Rogers. The President expressed frustration with the Russia investigation, saying that it made relations with the Russians difficult. The President told Rogers “the thing with the Russians [was] messing up” his ability to get things done with Russia. The President also said that the news stories linking him with Russia were not true and asked Rogers if he could do anything to refute the stories. Deputy Director of the NSA Richard Ledgett, who was present for the call, said it was the most unusual thing he had experienced in 40 years of government service. After the call concluded, Ledgett prepared a memorandum that he and Rogers both signed documenting the content of the conversation and the President’s request, and they placed the memorandum in a safe. But Rogers did not perceive the President’s request to be an order, and the President did not ask Rogers to push back on the Russia investigation.

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342 Gistaro 6/14/17 302, at 2.
343 Culver 6/14/17 302, at 2-3.
344 Coats 6/14/17 302, at 4.
345 Coats 6/14/17 302, at 4; Dempsey 6/14/17 302, at 3 (Coats relayed that the President had asked several times what Coats could do to help “get [the investigation] done,” and Coats had repeatedly told the President that fastest way to “get it done” was to let it run its course).
346 Hearing on Foreign Intelligence Surveillance Act Before the Senate Select Intelligence Committee, 115th Cong. (June 7, 2017) (CQ Cong. Transcripts, at 25) (testimony by Daniel Coats, Director of National Intelligence).
347 Rogers 6/12/17 302, at 3-4.
348 Rogers 6/12/17 302, at 4.
349 Ledgett 6/13/17 302, at 1-2; see Rogers 6/12/17 302, at 4.
investigation itself. Rogers later testified in a congressional hearing that as NSA Director he had “never been directed to do anything [he] believe[d] to be illegal, immoral, unethical or inappropriate” and did “not recall ever feeling pressured to do so.”

In addition to the specific comments made to Coats, Pompeo, and Rogers, the President spoke on other occasions in the presence of intelligence community officials about the Russia investigation and stated that it interfered with his ability to conduct foreign relations. On at least two occasions, the President began Presidential Daily Briefings by stating that there was no collusion with Russia and he hoped a press statement to that effect could be issued. Pompeo recalled that the President vented about the investigation on multiple occasions, complaining that there was no evidence against him and that nobody would publicly defend him. Rogers recalled a private conversation with the President in which he “vent[ed]” about the investigation, said he had done nothing wrong, and said something like the “Russia thing has got to go away.” Coats recalled the President bringing up the Russia investigation several times, and Coats said he finally told the President that Coats’s job was to provide intelligence and not get involved in investigations.

4. The President Asks Comey to “Lift the Cloud” Created by the Russia Investigation

On the morning of March 30, 2017, the President reached out to Comey directly about the Russia investigation. According to Comey’s contemporaneous record of the conversation, the President said “he was trying to run the country and the cloud of this Russia business was making

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353 Rogers 6/12/17 302, at 5; Ledgett 6/13/17 302, at 2.
354 Hearing on Foreign Intelligence Surveillance Act Before the Senate Select Intelligence Committee, 115th Cong. (June 7, 2017) (CQ Cong. Transcripts, at 20) (testimony by Admiral Michael Rogers, Director of the National Security Agency).
355 Gistaro 6/14/17 302, at 1, 3; Pompeo 6/28/17 302, at 2-3.
356 Gistaro 6/14/17 302, at 1.
358 Rogers 6/12/17 302, at 6.
359 Coats 6/14/17 302, at 3-4.
360 SCR012b_000044 (President’s Daily Diary, 3/30/17, reflecting call to Comey from 8:14 - 8:24 a.m.); Comey 3/30/17 Memorandum, at 1 (“The President called me on my CMS phone at 8:13 am today. ... The call lasted 11 minutes (about 10 minutes when he was connected).”); Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 6).
that difficult." The President asked Comey what could be done to “lift the cloud.” Comey explained “that we were running it down as quickly as possible and that there would be great benefit, if we didn’t find anything, to our Good Housekeeping seal of approval, but we had to do our work.” Comey also told the President that congressional leaders were aware that the FBI was not investigating the President personally. The President said several times, “We need to get that fact out.” The President commented that if there was “some satellite” (which Comey took to mean an associate of the President’s or the campaign) that did something, “it would be good to find that out,” but that he himself had not done anything wrong and he hoped Comey “would find a way to get out that we weren’t investigating him.” After the call ended, Comey called Boente and told him about the conversation, asked for guidance on how to respond, and said he was uncomfortable with direct contact from the President about the investigation.

On the morning of April 11, 2017, the President called Comey again. According to Comey’s contemporaneous record of the conversation, the President said he was “following up to see if [Comey] did what [the President] had asked last time—getting out that he personally is not under investigation.” Comey responded that he had passed the request to Boente but not heard back, and he informed the President that the traditional channel for such a request would be to

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361 Comey 3/30/17 Memorandum, at 1. Comey subsequently testified before Congress about this conversation and described it to our Office; his recollections were consistent with his memorandum. Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 6); Comey 11/15/17 302, at 18.

362 Comey 3/30/17 Memorandum, at 1; Comey 11/15/17 302, at 18.

363 Comey 3/30/17 Memorandum, at 1; Comey 11/15/17 302, at 18.

364 Comey 3/30/17 Memorandum, at 1; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 6).

365 Comey 3/30/17 Memorandum, at 1; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 6).

366 Comey 3/30/17 Memorandum, at 1; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 6-7).

367 Comey 3/30/17 Memorandum, at 2; Boente 1/31/18 302, at 6-7; Hearing on Russian Election Interference Before the Senate Select Intelligence Committee, 115th Cong. (June 8, 2017) (Statement for the Record of James B. Comey, former Director of the FBI, at 7).

368 SCR012b 000053 (President’s Daily Diary, 4/11/17, reflecting call to Comey from 8:27 – 8:31 a.m.); Comey 4/11/17 Memorandum, at 1 (“I returned the president’s call this morning at 8:26 am EDT. We spoke for about four minutes.”).

369 Comey 4/11/17 Memorandum, at 1. Comey subsequently testified before Congress about this conversation and his recollections were consistent with his memo. 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 7).
have the White House Counsel contact DOJ leadership. The President said he would take that step. The President then added, "Because I have been very loyal to you, very loyal, we had that thing, you know." In a televised interview that was taped early that afternoon, the President was asked if it was too late for him to ask Comey to step down; the President responded, "No, it's not too late, but you know, I have confidence in him. We'll see what happens. You know, it's going to be interesting." After the interview, Hicks told the President she thought the President's comment about Comey should be removed from the broadcast of the interview, but the President wanted to keep it in, which Hicks thought was unusual.

Later that day, the President told senior advisors, including McGahn and Priebus, that he had reached out to Comey twice in recent weeks. The President acknowledged that McGahn would not approve of the outreach to Comey because McGahn had previously cautioned the President that he should not talk to Comey directly to prevent any perception that the White House was interfering with investigations. The President told McGahn that Comey had indicated the FBI could make a public statement that the President was not under investigation if the Department of Justice approved that action. After speaking with the President, McGahn followed up with Boente to relay the President's understanding that the FBI could make a public announcement if the Department of Justice cleared it. McGahn recalled that Boente said Comey had told him there was nothing obstructive about the calls from the President, but they made Comey uncomfortable. According to McGahn, Boente responded that he did not want to issue a statement about the President not being under investigation because of the potential political ramifications and did not want to order Comey to do it because that action could prompt the

372 Comey 4/11/17 Memorandum, at 1. In a footnote to this statement in his memorandum, Comey wrote, "His use of these words did not fit with the flow of the call, which at that point had moved away from any request of me, but I have recorded it here as it happened."
373 Maria Bartiromo, Interview with President Trump, Fox Business Network (Apr. 12, 2017); SCR012b_000054 (President's Daily Diary, 4/11/17, reflecting Bartiromo interview from 12:30 - 12:55 p.m.).
374 Hicks 12/8/17 302, at 13.
375 Priebus 10/13/17 302, at 23; McGahn 12/12/17 302, at 9.
376 Priebus 10/13/17 302, at 23; McGahn 12/12/17 302, at 9; see McGahn 11/30/17 302, at 9; Dhillon 11/21/17 302, at 2 (stating that White House Counsel attorneys had advised the President not to contact the FBI Director directly because it could create a perception he was interfering with investigations). Later in April, the President told other attorneys in the White House Counsel's Office that he had called Comey even though he knew they had advised against direct contact. Dhillon 11/21/17 302, at 2 (recalling that the President said, "I know you told me not to, but I called Comey anyway.").
377 McGahn 12/12/17 302, at 9.
378 McGahn 12/12/17 302, at 9.
379 McGahn 12/12/17 302, at 9; see Boente 1/31/18 302, at 6 (recalling that Comey told him after the March 30, 2017 call that it was not obstructive).
appointment of a Special Counsel. Boente did not recall that aspect of his conversation with McGahn, but did recall telling McGahn that the direct outreaches from the President to Comey were a problem. Boente recalled that McGahn agreed and said he would do what he could to address that issue.

**Analysis**

In analyzing the President’s reaction to Sessions’s recusal and the requests he made to Coats, Pompeo, Rogers, and Comey, the following evidence is relevant to the elements of obstruction of justice:

a. **Obstructive act.** The evidence shows that, after Comey’s March 20, 2017 testimony, the President repeatedly reached out to intelligence agency leaders to discuss the FBI’s investigation. But witnesses had different recollections of the precise content of those outreaches. Some ODNI officials recalled that Coats told them immediately after the March 22 Oval Office meeting that the President asked Coats to intervene with Comey and “stop” the investigation. But the first-hand witnesses to the encounter remember the conversation differently. Pompeo had no memory of the specific meeting, but generally recalled the President urging officials to get the word out that the President had no done anything wrong related to Russia. Coats recalled that the President asked that Coats state publicly that no link existed between the President and Russia, but did not ask him to speak with Comey or to help end the investigation. The other outreaches by the President during this period were similar in nature. The President asked Rogers if he could do anything to refute the stories linking the President to Russia, and the President asked Comey to make a public statement that would “lift the cloud” of the ongoing investigation by making clear that the President was not personally under investigation. These requests, while significant enough that Rogers thought it important to document the encounter in a written memorandum, were not interpreted by the officials who received them as directives to improperly interfere with the investigation.

b. **Nexus to a proceeding.** At the time of the President’s outreaches to leaders of the intelligence agencies in late March and early April 2017, the FBI’s Russia investigation did not yet involve grand jury proceedings. The outreaches, however, came after and were in response to Comey’s March 20, 2017 announcement that the FBI, as a part of its counterintelligence mission, was conducting an investigation into Russian interference in the 2016 presidential election. Comey testified that the investigation included any links or coordination with Trump campaign officials and would “include an assessment of whether any crimes were committed.”

c. **Intent.** As described above, the evidence does not establish that the President asked or directed intelligence agency leaders to stop or interfere with the FBI’s Russia investigation—and the President affirmatively told Comey that if “some satellite” was involved in Russian election interference “it would be good to find that out.” But the President’s intent in trying to prevent Sessions’s recusal, and in reaching out to Coats, Pompeo, Rogers, and Comey following

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380 McGahn 12/12/17 302, at 9-10.
381 Boente 1/31/18 302, at 7; McGahn 12/12/17 302, at 9.
382 Boente 1/31/18 302, at 7.
Comey’s public announcement of the FBI’s Russia investigation, is nevertheless relevant to understanding what motivated the President’s other actions towards the investigation.

The evidence shows that the President was focused on the Russia investigation’s implications for his presidency—and, specifically, on dispelling any suggestion that he was under investigation or had links to Russia. In early March, the President attempted to prevent Sessions’s recusal, even after being told that Sessions was following DOJ conflict-of-interest rules. After Sessions recused, the White House Counsel’s Office tried to cut off further contact with Sessions about the matter, although it is not clear whether that direction was conveyed to the President. The President continued to raise the issue of Sessions’s recusal and, when he had the opportunity, he pulled Sessions aside and urged him to unrecuse. The President also told advisors that he wanted an Attorney General who would protect him, the way he perceived Robert Kennedy and Eric Holder to have protected their presidents. The President made statements about being able to direct the course of criminal investigations, saying words to the effect of, “You’re telling me that Bobby and Jack didn’t talk about investigations? Or Obama didn’t tell Eric Holder who to investigate?”

After Comey publicly confirmed the existence of the FBI’s Russia investigation on March 20, 2017, the President was “beside himself” and expressed anger that Comey did not issue a statement correcting any misperception that the President himself was under investigation. The President sought to speak with Acting Attorney General Boente directly and told McGahn to contact Boente to request that Comey make a clarifying statement. The President then asked other intelligence community leaders to make public statements to refute the suggestion that the President had links to Russia, but the leaders told him they could not publicly comment on the investigation. On March 30 and April 11, against the advice of White House advisors who had informed him that any direct contact with the FBI could be perceived as improper interference in an ongoing investigation, the President made personal outreaches to Comey asking him to “lift the cloud” of the Russia investigation by making public the fact that the President was not personally under investigation.

Evidence indicates that the President was angered by both the existence of the Russia investigation and the public reporting that he was under investigation, which he knew was not true based on Comey’s representations. The President complained to advisors that if people thought Russia helped him with the election, it would detract from what he had accomplished.

Other evidence indicates that the President was concerned about the impact of the Russia investigation on his ability to govern. The President complained that the perception that he was under investigation was hurting his ability to conduct foreign relations, particularly with Russia. The President told Coats he “can’t do anything with Russia,” he told Rogers that “the thing with the Russians” was interfering with his ability to conduct foreign affairs, and he told Comey that “he was trying to run the country and the cloud of this Russia business was making that difficult.”