

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

CABLE NEWS NETWORK, INC. )

Plaintiff, )

v. )

FEDERAL BUREAU OF )  
INVESTIGATION, )

Defendant. )

Civil Action No. 17-01167 (JEB)

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GANNETT SATELLITE INFORMATION )  
NETWORK, LLC, *et al.*, )

Plaintiff, )

v. )

DEPARTMENT OF JUSTICE, )

Defendant. )

Civil Action No. 17-01175 (JEB)

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JUDICIAL WATCH, INC., )

Plaintiff, )

v. )

U.S. DEPARTMENT OF JUSTICE, )

Defendant. )

Civil Action No. 17-01189 (JEB)

FREEDOM WATCH, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 17-1212 (JEB)
	)	
U.S. DEPARTMENT OF JUSTICE,	)	
	)	
Defendant.	)	
_____	)	
	)	
THE DAILY CALLER NEWS	)	
FOUNDATION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 17-1830 (JEB)
	)	
U.S. DEPARTMENT OF JUSTICE,	)	
	)	
Defendant.	)	
_____	)	

**PLAINTIFF JUDICIAL WATCH'S CROSS-MOTION  
FOR SUMMARY JUDGMENT**

Plaintiff Judicial Watch, Inc., by counsel and pursuant to Rule 56 of the Federal Rules of Civil Procedure, respectfully requests that summary judgment be entered in its favor. Grounds for the motion are set forth in the accompanying memorandum of law and Local Civil Rule 7(h) statement of facts.

Dated: November 3, 2017

Respectfully submitted,

/s/ Paul J. Orfanedes  
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*Counsel for Plaintiff Judicial Watch, Inc.*

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FEDERAL BUREAU OF	)	
INVESTIGATION,	)	
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Defendant.	)	
_____	)	
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	)	
U.S. DEPARTMENT OF JUSTICE,	)	
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Defendant.	)	
_____	)	

**PLAINTIFF JUDICIAL WATCH’S MEMORANDUM OF POINTS AND AUTHORITIES  
IN OPPOSITION TO DEFENDANTS’ MOTION FOR SUMMARY  
JUDGMENT AND IN SUPPORT OF JUDICIAL WATCH’S  
CROSS-MOTION FOR SUMMARY JUDGMENT**

**I. Introduction.**

Judicial Watch’s FOIA seeks a single record from the FBI – FBI Director James Comey’s February 14, 2017 memorandum (“February 14 Memo” or “the memo”) memorializing an Oval Office conversation he had with the President on that date regarding former National Security Advisor Michael Flynn. In his June 8, 2017 testimony before the U.S. Senate Select Committee on Intelligence, then Ex-Director Comey admitted making and keeping memos about all his one-on-one conversations with the President, including the February 14 Memo, for administrative and institutional purposes. He also admitted leaking the February 14 Memo to the media to prompt the appointment of special counsel. The contents of the February 14 Memo were

subsequently published in The New York Times. In light of Director Comey's actions and testimony, Defendant cannot plausibly maintain that the February 14 Memo was compiled for law enforcement purposes or that its disclosure under FOIA can reasonably be expected to interfere with any ongoing enforcement proceedings. The memo must be produced so the public can read and assess it for themselves.

## **II. Factual Background.**

Director Comey met the President-Elect for the first time on January 6, 2017, at Trump Tower in New York City. *See* Plaintiff's accompanying Local Civil Rule 7(h) statement of facts ("Plf's SOF") at para. 35. On that date, Director Comey and other Intelligence Community leaders gave the President-Elect and members of his national security team an intelligence briefing, after which Director Comey met one-on-one with the President Elect. *Id.* at para. 36. After the meeting, Director Comey began documenting all his one-on-one meetings with the President. *Id.* at para. 37. "Creating written records immediately after one-on-one conversations with Mr. Trump was my practice from that point forward." *Id.* When asked why he memorialized his one-on-one conversations with President Trump when he had not done so with Presidents Bush and Obama, Director Comey stated, "[J]ust a gut feeling, laying on top of all of that, that this – it's going to be important, to protect this organization, that I make records of this." *Id.* at para. 38. Director Comey "was honestly concerned that [the President-Elect] might lie about the nature of our meeting." *Id.* at para. 39. Although he had only met the President-Elect for the first time that day, Director Comey cited "the nature of the person that I was interacting with and my read of that person," as among the reasons for his concern. *Id.*

After the inauguration, Director Comey met the President one-on-one on January 27, 2017 and again on February 14, 2017. Plf's SOF at para. 40. He created memos of both

meetings. *Id.* The February 14 meeting took place in the Oval Office and followed a larger meeting with several other, high-level Executive Branch officials. *Id.* at para. 41. The subject of the one-on-one conversation that followed was former National Security Advisor Michael Flynn, who had resigned the previous day. *Id.* Director Comey “immediately prepared an unclassified memo of the conversation about Flynn and discussed the matter with FBI senior leadership.” *Id.* at para. 42. “We decided the best move would be to hold it, keep it in a box, document it, as we’d already done.” *Id.*

Director Comey recalled nine one-on-one conversations in the four-month period between January 6, 2017 and April 11, 2017. Plf’s SOF at para. 43. Three were in person, and six were “on the phone.” *Id.* He created records “after each of our nine conversations.” Tr. at 33. “If I didn’t, I did it for nearly all of them especially the ones that were substantive.” *Id.* According to Director Comey, “I knew there might come a day when I would need a record of what had happened, not just to defend myself, but to defend the FBI and our integrity as an institution and the independence of our investigative function.” *Id.* at para. 44.

On Tuesday, May 9, 2017, the President fired Director Comey. Plf’s SOF at para. 45. On Friday, May 12, 2017, Ex-Director Comey arranged for a friend to provide the February 14 Memo to a reporter to prompt the appointment of a special counsel. *Id.* at para. 46. “My judgment was, I need to get that out into the public square. I asked a friend of mine to share the content of the memo with a reporter. Didn’t do it myself for a variety of reasons. I asked him to because I thought that might prompt the appointment of a special counsel.” *Id.* Ex-Director Comey apparently removed copies of his memos from the FBI at some point because he gave a copy of the February 14 Memo to his friend to share with the media. *Id.* at para. 47. The friend was later identified as Columbia Law School Professor Daniel C. Richman. *Id.* at para. 48.

The following day, Tuesday, May 16, 2017, The New York Times published a report by Michael S. Schmidt, entitled “Comey Memo Says Trump Asked Him to End Flynn Investigation,” regarding the February 14 Memo and its contents. Plf’s SOF at para. 49. That same day, Judicial Watch submitted a FOIA request to the FBI seeking the following:

The memorandum written by former Director James Comey memorializing his meeting and conversation with President Trump regarding the FBI’s investigation of potential Russian interference in the 2016 United States presidential election. For purposes of clarification, this memorandum was reportedly written on or about February 13, 2017 and is the subject of a New York Times article (enclosed) dated May 16, 2017.

*Id.* at para. 50. The request was served via the FBI’s eFOIAP system and, accordingly, was received the same day it was sent. *Id.* On May 17, 2017, Acting Attorney General Rod J. Rosenstein appointed a Special Counsel to investigate Russian interference with the 2016 presidential election and related matters, as Director Comey intended when he disclosed the February 14 Memo to the news media. *Id.* at para. 51.

On June 8, 2017, Ex-Director Comey gave written and oral testimony to the Select Committee. Plf’s SOF at para. 52. He testified at length about his practice of memorializing his one-on-one meetings with the President, their February 14, 2017 meeting, and the February 14 Memo prepared by Ex-Director Comey following that meeting. *Id.* Ex-Director Comey’s written testimony with respect to the February 14, 2017 meeting was as follows:

When the door by the grandfather clock closed, and we were alone, the President began by saying, “I want to talk about Mike Flynn.” Flynn had resigned the previous day. The President began by saying Flynn hadn’t done anything wrong in speaking with the Russians, but he had to let him go because he had misled the Vice President. He added that he had other concerns about Flynn, which he did not specify.

The President then made a long series of comments about the problem with leaks of classified information – a concern I shared and still share. After he had spoken for a few minutes about leaks, Reince Priebus leaned in through the door by the grandfather clock and I could see a group of people waiting behind him. The

President waived at him to close the door, saying he would be done shortly. The door closed.

The President then returned to the topic of Mike Flynn, saying, “He’s a good guy and has been through a lot.” He repeated that Flynn hadn’t done anything wrong on his calls with the Russians, but had misled the Vice President. He then said, “I hope you can see your way clear to letting this go, to letting Flynn go. He is a good guy. I hope you can let this go.” I replied only that “he is a good guy.” (In fact, I had a positive experience dealing with Mike Flynn when he was a colleague as Director of the Defense Intelligence Agency at the beginning of my term at FBI.) I did not say I would “let this go.”

The President returned briefly to the problem of leaks. I then got up and left out the door by the grandfather clock, making my way through the large group of people waiting there, including Mr. Priebus and the Vice President.

I immediately prepared an unclassified memo of the conversation about Flynn and discussed the matter with FBI senior leadership.

*Id.* at para. 53. Ex-Director Comey testified orally that, when the February 14, 2017 meeting began, his “impression was, something big is about to happen.” *Id.* at para. 54. “I need to remember every single word that is spoken.” *Id.* When Ex-Director Comey was asked if he was quoting the President’s exact words, he responded, “Correct.” *Id.* at para. 55. Ex-Director Comey also testified that he remembered every word the President said, that he was very careful in choosing the words he used to respond to the President, and that he remembered saying “I agree he’s a good guy.” *Id.* He chose his response “as a way of saying ‘I’m not agreeing with what you just asked me to do.’” *Id.* According to Ex-Director Comey’s testimony, he wrote the February 14 Memo to be unclassified so that it could be discussed and shared more easily: “So my thinking was, if I write it in such a way that I don’t include anything that would trigger a classification, that’ll make it easier for us to discuss within the FBI and the government and to – to hold on to it in a way that makes it accessible to us.” *Id.* at para. 56. He also testified that he reviewed his memos in preparing his written testimony. *Id.* at para. 57.



### **III. Argument.**

#### **A. Standard of Review.**

The legal standard for summary judgment in a FOIA case is well known to the Court. *See, e.g., Elkins v. FAA*, 99 F. Supp.3d 90, 94-95 (D.D.C. 2015) (Boasberg, J.). In FOIA cases, the agency bears the burden of proof. *Id.* at 94 (*citing Dep't of Justice v. Tax Analysts*, 492 U.S. 136, 142 n.3 (1989)). An agency withholding responsive records under claim of exemption bears the burden of proving the applicability of the exemption claimed. *Am. Civil Liberties Union v. U.S. Dep't of Defense*, 628 F.3d 612, 619 (D.C. Cir. 2011) (“ACLU”). It typically tries to do so by affidavit. *Id.* The agency’s affidavit must justify a withholding with specific details, demonstrate that the information withheld logically falls within the claimed exemption, and not be contradicted by contrary evidence in the record. *Id.* Ultimately, an agency’s justification for invoking a FOIA exemption must be “logical” or “plausible.” *Id.*

#### **B. FOIA Exemption 7(A) Does Not Apply.**

FOIA’s Exemption 7(A) authorizes agencies to withhold “records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings.” 5 U.S.C. § 552(b)(7)(A). As an initial matter, an agency invoking Exemption 7(A) must first prove the record or information was compiled for a law enforcement purpose. If the agency meets this threshold, it must then show, “by more than conclusory statement, how the particular kinds of investigatory records requested would interfere with a pending enforcement proceeding.” *Campbell v. U.S. Dep't of Health & Human Servs.*, 682 F.2d 256, 259 (D.C. Cir. 1982).

Defendant has not even attempted to demonstrate that the February 14 Memo is exempt from production under Exemption 7(A). Instead, it takes a “categorical” approach to all of Ex-Director Comey’s nine-or-so memos about his one-on-one conversations with the President. It claims generically that this entire group of records is exempt from production under Exemption 7(A) without addressing any memo, including the February 14 Memo Judicial Watch requested, individually.<sup>1</sup>

1. Defendant’s categorical approach.

Courts have held that, in appropriate circumstances, agencies may withhold responsive records on a categorical basis. Under such an approach, an agency need not meet its burden of proof with respect to each and every record, but instead may group responsive records by category, then demonstrate the category falls within one or more FOIA exemptions. In effect, a categorical approach lessens an agency’s burden. It has no basis in FOIA’s text. It also is seemingly at odds with FOIA’s purpose of being a disclosure statute, not a withholding statute. *Env’tl. Prot. Agency v. Mink*, 410 U.S. 73, 79 (1973).

There are limits to when a categorical approach may be used. *Citizens for Responsibility & Ethics in Washington v. U.S. Dep’t of Justice*, 746 F.3d 1082, 1099 (D.C. Cir. 2014) (“CREW”); *Nation Magazine v. U.S. Customs Serv.*, 71 F.3d 885, 893 (D.C. Cir. 1995). The nature of the records, not the exemption being invoked, determines whether a categorical approach is appropriate. Only when the range of circumstances included in the category “characteristically supports an inference” that the statutory requirements for exemption may be satisfied is a categorical approach appropriate. *Id.* Stated another way, “a categorical approach

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<sup>1</sup> To the extent Exemption 7(A) might apply to some portion of the February 14 Memo, Defendant obviously has a duty to release any reasonably segregable portions not subject to the exemption. 5 U.S.C. § 552(b).

is appropriate only if ‘a case fits into a genus in which the balance *characteristically* tips in one direction.’” *CREW*, 746 F.3d at 1095 (citing *U.S. Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 776 (1989)).

In *CREW*, the Court rejected Defendant’s categorical treatment of records of a criminal investigation of former U.S. House of Representatives Majority Leader Tom DeLay and others, which, like here, Defendant tried to withhold under Exemption 7(A). *CREW*, 746 F.3d at 1099. Delay had been advised that he was no longer under investigation, but the others had not, leading the Court to conclude that, without more information, records concerning both Delay and the others under investigation could not be treated categorically. *Id.* It likewise rejected Defendant’s categorical approach to withholding the records under Exemption 7(C), finding that, although the individuals under investigation had a substantial privacy interest in the records, “the balance does not characteristically tip in favor of non-disclosure” “in light of the similarly substantial countervailing public interest.” *Id.* at 1096.

Types of records where courts have authorized a categorical approach include grand jury materials or evidence gathered pursuant to a search warrant, witness statements, FD-302s, investigators’ or prosecutors’ notes, theories, and work product, and other common law enforcement materials. Judicial Watch has found no case in which a court has authorized a categorical approach where the records at issue were “memos of one-on-one conversations with the president.” Defendant cites none. Judicial Watch submits that the range of circumstances likely present in a proposed category of records comprised of “memos of one-on-one conversations with the president” is far too great to warrant categorical treatment. No matter what the claim of exemption, it cannot be said that such memos are going to be sufficiently similar to warrant categorical treatment. Nothing about “memos of one-on-one conversations

with the president” “characteristically supports an inference” that the statutory requirements for any particularly exemption may be satisfied. They are not of a “genus in which the balance characteristically tips in one direction.”

Regardless of whether a categorical approach is appropriate here, Defendant has failed to meet its burden using such an approach. An agency has a “three-fold task” if it wishes to adopt a categorical approach. *Citizens for Responsibility & Ethics in Washington v. U.S. Dep’t of Justice*, 746 F.3d 1082, 1098 (D.C. Cir. 2014) (“CREW”) (citing *Bevis v. U.S. Dep’t of State*, 801 F.2d 1386, 1389-90 (D.C. Cir. 1986)). “First, it must define its categories functionally.” *Id.* “Second, it must conduct a document-by-document review in order to assign documents to the proper category.” *Id.* Finally, it must explain to the court how the category falls within the exemption claimed. *Id.* Defendant does not even claim to have defined its categories, functionally or otherwise, much less demonstrate why the memos should be treated categorically. It lumps the memos together – there are only approximately nine of them – and treats them as if they were a category. Defendant also does not claim to have reviewed the memos document-by-document to make sure they are properly assigned to its newly-minted category. It also has not explained how the memos fall within Exemption 7(A).

“[I]t is not sufficient for the agency to simply assert that disclosure will interfere with enforcement proceedings; ‘it must rather demonstrate *how* disclosure’ will do so.” *CREW*, 746 F.3d at 1098 (quoting *Sussman v. U.S. Marshals Serv.*, 494 F.3d 1106, 1114 (D.C. Cir. 2007)). Defendant has not shown *how* disclosure of the nine-or-so memos it categorizes as one-on-one conversations with the President will interfere with the Russia investigation. It relies on a single sentence claiming disclosure will “adversely affect the pending investigation by revealing the scope and focus of the investigation, and whether particular persons, activities, information, or

evidence is or is not of interest to the investigation.” Hardy Decl. at para. 71. Defendant’s single sentence is a bald, conclusory assertion, not a demonstration of harm. Its bare bones claim is particularly insufficient given the Ex-Director Comey’s extensive testimony and quotation from at least one of the memos in the category – the February 14 Memo. Defendant fails to meet its burden of proof under a categorical approach.

2. No “law enforcement purpose”.

Defendant also fails to prove the February 14 Memo was compiled for a law enforcement purpose. Defendant does not claim the memo contains or reflects evidence gathered by a grand jury or pursuant to a search warrant, witness statements, FD-302s, investigators’ or prosecutors’ notes, theories, work product, or other common investigative material. It glosses over the memo’s creation and ignores Ex-Director Comey’s testimony about the reason he made and kept the memo. Defendant does not even address the February 14 Memo specifically. Instead, it asserts generically that all of Ex-Director Comey’s memos contain information “compiled as part of and in relation to” the “Russia Investigation.” Hardy Decl. at para. 67.

Defendant’s boilerplate claim is directly contradicted by Ex-Director Comey’s testimony to the Select Committee. Ex-Director Comey testified he made and kept the February 14 Memo to protect the FBI’s institutional interests, not for the Russia investigation. He apparently believed the President would lie about their meetings and wanted a verbatim record of what he and the President had said. Ex-Director Comey’s testimony certainly does not describe any law enforcement purpose previously recognized by a court as falling under Exemption 7(A).

The substance of Ex-Director Comey’s testimony about his conversation with the President refutes the FBI’s claim that the memo was prepared for a law enforcement purpose or otherwise contains information compiled as part of the Russia investigation. In sum and

substance, Ex-Director Comey testified that, during their one-on-one Oval Office conversation on February 14, 2017, the President told him General Flynn had not done anything wrong except mislead the Vice President and that he “hope[d] you can see your way clear to letting this go, to letting Flynn go. He’s a good guy.” Ex-Director Comey responded, “I agree he’s a good guy.” He did not say he would “let this go.” This is not “law enforcement” material within the meaning of Exemption 7(A). As the February 14 Memo predates Comey’s firing, it also cannot have been compiled by Comey for any obstruction of justice investigation of the President.

Ex-Director Comey plainly did not use the February 14 Memo for any recognized or legitimate law enforcement purpose. He used it to settle a score with the President, who had just fired him. He readily admitted leaking the memo to a reporter, through an intermediary, within days of his May 9, 2017 firing. A report about the meeting memorialized in the February 14 Memo was published in the New York Times on May 16, 2017, one week after Comey’s firing. The leak had its intended effect. Special Counsel Mueller was appointed on May 17, 2017.

Defendant makes no claim that the February 14 Memo was subsequently compiled by Special Counsel Mueller as part of the Russia investigation.<sup>2</sup> Special Counsel Mueller had not yet been appointed when Judicial Watch served its FOIA request on May 16, 2017. Judicial Watch served the request on the FBI, not on Special Counsel Mueller’s office. Moreover, Defendant claims to have found the memo in Ex-Director Comey’s files, not in any investigative files of the FBI or Special Counsel Mueller. Hardy Decl. at para. 62. Defendant does not even claim to have searched Special Counsel Mueller’s files. The fact that the February 14 Memo

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<sup>2</sup> Records showing that Special Counsel Mueller subsequently obtained a copy of the February 14 Memo for use in his investigation might be protected by Exemption 7(A), but only the fact that the memo was obtained, not the memo itself, would be protected. *See, e.g., Labow v. U.S. Dep’t of Justice*, 831 F. 3d 523, 529-30 (D.C. Cir. 2016).

was found in Ex-Director Comey's files, not in the FBI's investigative files or in the Special Counsel's files, further undercuts Defendant's claim that the memo was compiled for a law enforcement purpose by either the FBI or by Special Counsel Mueller.

3. No reasonable expectation of interference.

Even if Defendant had attempted to justify its withholdings on an document-by-document basis rather than a categorical basis, it could not prove disclosure of the February 14 Memo could reasonably be expected to interfere with the Russia investigation. Again, Ex-Director Comey's testimony undermines any such claim, as does his leaking the memo to the New York Times to prompt the appointment of a special counsel. Ex-Director Comey devoted more of his Select Committee testimony to the February 14 Memo than to any other single record or subject. In addition to testifying about his purpose in writing and keeping the memo, Ex-Director Comey testified that he took great care to remember and quote the President's exact words and his words to the President, then repeated them in his written and oral testimony. Defendant's generic claim that "there is much that is not known publicly known about these documents" is directly contradicted by Ex-Director Comey's testimony. Def's Mem. at 20. Defendant certainly presents no evidence unique to the February 14 Memo to this effect.

Defendant does not claim, much less prove, that any portion of the February 14 Memo remains undisclosed. It also does not claim or prove that any undisclosed portion of the memo could reasonably be expected to interfere with the Russia investigation if it were disclosed. Defendant does not even address the February 14 Memo individually. It lumps the memo together with the others prepared by Ex-Director Comey as part of its failed, categorical approach, then generically asserts that disclosure of all the memos combined is reasonably likely to interfere with the Russia investigation. Given Ex-Director Comey's extensive testimony

about the February 14 Memo and the fact he readily admitted leaking the memo to the New York Times, Defendant must do more than make boilerplate assertions about Ex-Director Comey's memos collectively. It must make an individualized showing that disclosure of any portions of the February 14 Memo not already disclosed by Ex-Director Comey could reasonably be expected to interfere with an ongoing investigation.

Interference is a material part of any Exemption 7(A) claim. An agency bears the burden of proving interference regardless of whether there is any claim of an "official acknowledgment" of the contents of an agency record. An "official acknowledgment" analysis – the equivalent of an affirmative defense of waiver – occurs only *after* the agency proves an exemption applies. *ACLU*, 628 F.3d at 620 ("If the government has officially acknowledged information, a FOIA plaintiff may compel disclosure of that information even over an agency's otherwise valid exemption claim."). While Defendant claims it took public statements about Ex-Director Comey's memos into account, including Ex-Director Comey's testimony, in considering whether to release the memos collectively, the bell cannot be unrung. Defendant has not and cannot prove disclosure of the February 14 Memo could reasonably be expected to interfere with the Russia investigation in light of Ex-Director Comey's leaking of the memo to the New York Times and his subsequent, extensive and detailed testimony about the memo. Moreover, Defendant does not claim Ex-Director Comey's testimony was unauthorized, nor disclaim there was coordination between Ex-Director Comey and Defendant, the FBI, and/or Special Counsel Mueller about the testimony.<sup>3</sup> Under the circumstances, it would seem very likely at least some coordination took place.

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<sup>3</sup> Judicial Watch served a separate FOIA request for records of communications between Defendant and Ex-Director Comey regarding his Select Committee testimony. That request also is in litigation. *See Judicial Watch, Inc. v. U.S. Dep't of Justice*, Case No. 17-cv-2116 (TJK) (D.



Finally, if disclosure of the February 14 Memo could reasonably be expected to harm the Russia investigation, then presumably Defendant would have taken steps to address Ex-Director Comey's removal of the memo from the FBI, leaking of the memo to the media, and subsequent testimony about the memo, to the extent that testimony was unauthorized and not coordinated with Defendant, the FBI, and/or Special Counsel Mueller. Removal of government records is a federal offense. *See, e.g.*, 18 U.S.C. §§ 641 and 2071. Defendant compares Ex-Director Comey to Wikileaks (Def's Mem. at 18), but makes no claim to have initiated action to address Ex-Director Comey's misconduct. Its failure to do so further undercuts any claim of harm.

4. Waiver.

Unlike in most waiver cases, the disclosure at issue here was far more than a leak. It was sworn testimony by the former head of the FBI about a memo he personally wrote during his tenure at the FBI. Ex-Director Comey's testimony about the February 14 Memo obviously has an authority, veracity, and weight far beyond an anonymous leak. Defendant also makes no claim that it tried to stop Ex-Director Comey from testifying to the Select Committee about the February 14 Memo or any other memo he wrote about his one-on-one conversations with the President. Defendant also does not claim that Ex-Director Comey's testimony is erroneous. The testimony, coming only one month after Comey was dismissed as head of the FBI, has all the hallmarks of reliability and trustworthiness and sufficient indicia of official action to warrant treating the testimony as an official acknowledgment. The February 14 Memo should be produced even if the Court determines Defendant has satisfied Exemption 7(A) because the memo has been sufficiently officially acknowledged. *ACLU*, 628 F.3d at 620-21 (describing 3-part test for official acknowledgment).

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District of Columbia) (filed Nov. 2, 2017).

C. Defendant Failed to Prove that Exemptions 1, 3, 6, and 7(C) and (E)  
Apply to the February 14 Memo.

Defendant makes no effort to identify which memos it claims are subject to Exemptions 1, 3, 6, and 7(C) and 7(E). Rather, it asserts these claims of exemption generally, without reference to any particular memo. Defendant's blunderbuss approach puts Judicial Watch in an untenable position. It is impossible for Judicial Watch to know whether Defendant is even claiming the February 14 Memo is subject to one or more of these additional exemptions and, if so, which one(s). It also is impossible for Judicial Watch to know whether or to what extent it needs to respond to any particular, non-7(A) claim of exemption. At a minimum, Defendant should be required to identify whether it claims the February 14 Memo is subject to any claim of exemption other than 7(A), and, if so, which one(s). Only then would Judicial Watch have a fair opportunity to respond.

Ex-Director Comey testified he wrote the February 14 Memo so that it would not be classified. June 8 Tr. at 41-42. Defendant makes no claim that Comey's testimony was false. Defendant also makes no claim – at least not yet – that Ex-Director Comey disclosed classified information when he leaked the February 14 Memo to the New York Times. It also makes no claim that he removed classified information from the FBI or otherwise mishandled classified information. Nor does it claim Ex-Director Comey disclosed classified information when he discussed the February 14 Memo at length in his June 8 testimony. These facts plainly contradict any claim that the February 14 Memo contains information exempt from production under Exemptions 1 and 3 and makes any such claim illogical and implausible.

In addition, Defendant makes no claim about when, if Ex-Director Comey's congressional testimony was incorrect, the February 14 Memo was allegedly classified. The Hardy Declaration does not say when any of the memos were allegedly classified. The date of

classification is important because a record classified after a FOIA request is made is subject to a different standard. The agency must satisfy the additional requirements of Executive Order 13,526, section 1.7(d). *Canning v. U.S. Dep't of State*, 134 F. Supp.3d 490, 506 (D.D.C. 2015). Among other things, section 1.7(d) provides that previously undisclosed, responsive information may be classified after the receipt of a FOIA request “only if such classification . . . is accomplished on a document-by-document basis *with the personal participation or under the direction* of the agency head, deputy agency head, or the senior agency official designated under section 5.4 of this order.” *Id.* (quoting Exec. Order 13,526 § 1.7(d)). Defendant’s failure to specify when the memos were classified makes it impossible to determine whether the correct standard is being applied.

Finally, Ex-Director Comey’s description of his February 14, 2017 meeting with the President is at odds with any claim that the memo contains the names or identifying information about any persons other than the President or Ex-Director Comey. It also is at odds with any claim that the disclosure of the memo would reveal law enforcement techniques or procedures. Ex-Director Comey described a brief conversation in which the President stated he hoped the FBI could “see [its] way clear” of the Flynn matter because Flynn “is a good guy and has been through a lot.” Ex-Director Comey said he replied “only that ‘[Flynn] is a good guy’ . . . I did not say I would ‘let this go.’” Again, Defendant’s claims of exemption are contradicted by Ex-Director Comey’s testimony and are neither logical or plausible. Even if the February 14 Memo did contain such information, it could be redacted so that the remaining portion of the memo can be produced. *See* 5 U.S.C. § 552(b).

D. Defendant's Ex Parte, In Camera Submission.

Judicial Watch objects to Defendant's ex parte, in camera submission. The D.C. Circuit has noted that the "asymmetrical distribution of knowledge" between the agency and the requestor in FOIA litigation "distorts the traditional adversary nature of our legal system's form of dispute resolution." *Judicial Watch, Inc. v. Food and Drug Admin.*, 449 F.3d 141, 145-46 (D.C. Cir. 2006). The Court also has "expressed grave reservations regarding nonpublic government presentations absent sensitive national security concerns," which are not present here. *Campbell*, 682 F.2d at 265. "Accordingly, the district court should attempt to develop as complete a public record as possible." *Id.*

Defendant's flawed use of a "categorical" approach to its claims of exemption further exacerbates the already asymmetrical distribution of knowledge between the parties. Defendant's ex parte, in camera submission effectively deprives Judicial Watch of any meaningful opportunity to rebut Defendant's claims and deprives the public of the opportunity to learn why Defendant seeks to shield the February 14 Memo from public scrutiny. To the extent Defendant seeks to present any additional evidence in support of its arguments, it should be required to do so on the public record.

IV. Conclusion.

For the foregoing reasons, Defendant's motion for summary judgment should be denied, Judicial Watch's cross-motion for summary judgment should be granted, and the February 14 Memo should be produced to Judicial Watch promptly.

Dated: November 3, 2017

Respectfully submitted,

/s/ Paul J. Orfanedes

Paul J. Orfanedes

D.C. Bar No. 429716

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*Counsel for Plaintiff Judicial Watch, Inc.*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

CABLE NEWS NETWORK, INC.	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 17-01167 (JEB)
	)	
FEDERAL BUREAU OF	)	
INVESTIGATION,	)	
	)	
Defendant.	)	
<hr/>	)	
	)	
GANNETT SATELLITE INFORMATION	)	
NETWORK, LLC, <i>et al.</i> ,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 17-01175 (JEB)
	)	
DEPARTMENT OF JUSTICE,	)	
	)	
Defendant.	)	
<hr/>	)	
	)	
JUDICIAL WATCH, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 17-01189 (JEB)
	)	
U.S. DEPARTMENT OF JUSTICE,	)	
	)	
Defendant.	)	
<hr/>	)	

FREEDOM WATCH, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 17-1212 (JEB)
	)	
U.S. DEPARTMENT OF JUSTICE,	)	
	)	
Defendant.	)	
_____	)	
	)	
THE DAILY CALLER NEWS	)	
FOUNDATION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 17-1830 (JEB)
	)	
U.S. DEPARTMENT OF JUSTICE,	)	
	)	
Defendant.	)	
_____	)	

**PLAINTIFF JUDICIAL WATCH’S RESPONSE TO DEFENDANTS’ STATEMENT  
OF MATERIAL FACTS NOT IN DISPUTE AND FURTHER  
STATEMENT OF UNDISPUTED MATERIAL FACTS  
IN SUPPORT OF CROSS-MOTION FOR  
SUMMARY JUDGMENT**

Plaintiff Judicial Watch, Inc. (“Judicial Watch”), by counsel and pursuant to Local Civil Rule 7(h), respectfully submits this response to Defendants’ statement of material facts not in dispute and further statement of undisputed material facts in support of Plaintiff’s cross-motion for summary judgment:

**I. Plaintiff’s Response to Defendants’ Statement of Material Facts Not in Dispute.**

1. Undisputed.
2. Undisputed.
3. Undisputed.

4. Undisputed.

5. Judicial Watch objects to this paragraph because whether information has been officially acknowledged is a legal conclusion, not a factual assertion, and therefore is inappropriate for inclusion in a statement of material facts. To the extent this paragraph contains an assertion of fact, Judicial Watch disputes it. *See generally* Statement for the Record, Senate Select Committee on Intelligence, by James Comey, June 8, 2017 (“Stmt.”), attached hereto as Exhibit 1, at 1; Transcript of Senate Intelligence Committee Hearing, June 8, 2017 (“Tr.”), attached hereto as Exhibit 2.

6. Undisputed.

7. Judicial Watch objects to this paragraph because it is not specific to any particular one-on-one conversation between Director Comey and the President. Judicial Watch disputes the assertion with respect to the only conversation material to Judicial Watch’s request – the February 14, 2017 conversation. Tr. at 49 and 51.

8. Judicial Watch objects to this paragraph because whether information has been officially acknowledged is a legal conclusion, not a factual assertion, and therefore is inappropriate for inclusion in a statement of material facts. To the extent this paragraph contains an assertion of fact, Judicial Watch disputes it. *See generally* Stmt.; Tr.

9. Judicial Watch has no independent knowledge of CNN’s request, which is immaterial to adjudication of Judicial Watch’s request.

10. Judicial Watch has no independent knowledge of CNN’s request, which is immaterial to adjudication of Judicial Watch’s request.

11. Judicial Watch has no independent knowledge of USA Today’s request, which is immaterial to adjudication of Judicial Watch’s request.



12. Judicial Watch has no independent knowledge of the James Madison Project/Garrett Graff request, which is immaterial to adjudication of Judicial Watch's request.

13. Judicial Watch has no independent knowledge of the James Madison Project/Lance Markay request, which is immaterial to adjudication of Judicial Watch's request.

14. Judicial Watch has no independent knowledge of the James Madison Project/Garrett Graff and the James Madison Project/Lance Markay requests, which are immaterial to adjudication of Judicial Watch's request.

15. Judicial Watch has no independent knowledge of the James Madison Project/Garrett Graff and the James Madison Project/Lance Markay requests, which are immaterial to adjudication of Judicial Watch's request.

16. Judicial Watch has no independent knowledge of the USA Today, James Madison Project/Garrett Graff, and the James Madison Project/Lance Markay requests, which are immaterial to adjudication of Judicial Watch's request.

17. Undisputed.

18. Undisputed.

19. Judicial Watch has no independent knowledge of Freedom Watch's request, which is immaterial to adjudication of Judicial Watch's request.

20. Judicial Watch has no independent knowledge of Freedom Watch's request, which is immaterial to adjudication of Judicial Watch's request.

21. Judicial Watch has no independent knowledge of Freedom Watch's request, which is immaterial to adjudication of Judicial Watch's request.

22. Undisputed.

23. Undisputed.

24. Plaintiff Judicial Watch is unable to state whether it disputes or does not dispute the facts asserted by Defendant in this paragraph because Defendant's factual assertions concern the internal operations of Defendant or are otherwise uniquely known to Defendant. *See, e.g., Judicial Watch, Inc. v. Food and Drug Admin.*, 449 F.3d 141, 145-46 (D.C. Cir. 2006) (noting that the "asymmetrical distribution of knowledge" between the agency and the requestor in FOIA litigation "distorts the traditional adversary nature of our legal system's form of dispute resolution.").

25. As Judicial Watch requested the February 14 Memo only, Defendants' factual assertion is immaterial to adjudication of Judicial Watch's request. Judicial Watch disputes that the February 14 Memo contains information compiled for the Russia investigation. *See generally* Stmt.; Tr.

26. Plaintiff Judicial Watch is unable to state whether it disputes or does not dispute the facts asserted by Defendant in this paragraph because Defendant's factual assertions concern the internal operations of Defendant or are otherwise uniquely known to Defendant. *See, e.g., Judicial Watch, Inc.*, 449 F.3d at 145-46.

27. Disputed. Stmt. at 5; Tr. at 41-42.

28. Judicial Watch objects to this paragraph because it is a policy choice, not a factual assertion, and therefore is inappropriate for inclusion in a statement of material facts.

29. Judicial Watch does not dispute that "one vehicle for gathering information about the U.S. Government's capabilities is by reviewing officially-released information." As any individual or organization can review officially-released information for any purpose, the remaining assertions are immaterial to adjudication of Judicial Watch's request.

30. Judicial Watch objects to this paragraph because it is immaterial to adjudication of Judicial Watch's request.

31. Judicial Watch objects to this paragraph because whether information has been officially acknowledged is a legal conclusion, not a factual assertion, and therefore is inappropriate for inclusion in a statement of material facts. Judicial Watch also objects to this paragraph because it is immaterial to adjudication of Judicial Watch's request.

32. Judicial Watch objects to this paragraph because it is a legal conclusion, not a factual assertion, and therefore is inappropriate for inclusion in a statement of material facts. Judicial Watch also objects to this paragraph because it is immaterial to adjudication of Judicial Watch's request.

33. Judicial Watch objects to this paragraph because it is a legal conclusion, not a factual assertion, and therefore is inappropriate for inclusion in a statement of material facts. Judicial Watch also objects to this paragraph because, as Judicial Watch only requested the February 14 Memo, the identity of individuals referenced in other memos is immaterial to adjudication of Judicial Watch's request.

34. Judicial Watch objects to this paragraph because it is a legal conclusion, not a factual assertion, and therefore is inappropriate for inclusion in a statement of material facts. Judicial Watch also objects to this paragraph because, as Judicial Watch only requested the February 14 Memo, the identity of individuals referenced in other memos is immaterial to adjudication of Judicial Watch's request.

## **II. Plaintiff's Statement of Undisputed Material Facts in Support of Cross-Motion for Summary Judgment.**

35. Director Comey met the President-Elect for the first time on January 6, 2017, at Trump Tower in New York City. Stmt. at 1.

36. On that date, Director Comey and other Intelligence Community leaders gave the President-Elect and members of his national security team an intelligence briefing, after which Director Comey met one-on-one with the President Elect. Stmt. at 1

37. After the meeting, Director Comey began documenting all his one-on-one meetings with the President. Stmt. at 2. “Creating written records immediately after one-on-one conversations with Mr. Trump was my practice from that point forward.” *Id.*

38. When asked why he memorialized his one-on-one conversations with President Trump when he had not done so with Presidents Bush and Obama, Director Comey stated, “[J]ust a gut feeling, laying on top of all of that, that this – it’s going to be important, to protect this organization, that I make records of this.” Tr. at 85.

39. Director Comey “was honestly concerned that [the President-Elect] might lie about the nature of our meeting.” Although he had only met the President-Elect for the first time that day, Director Comey cited “the nature of the person that I was interacting with and my read of that person,” as among the reasons for his concern. Tr. at 83; *see also* Tr. at 31-33.

40. After the inauguration, Director Comey met the President one-on-one on January 27, 2017 and again on February 14, 2017. Stmt. at 2-6. He created memos of both meetings. *Id.* at 4 and 5.

41. The February 14 meeting took place in the Oval Office and followed a larger meeting with several other, high-level Executive Branch officials. Stmt. at 4. The subject of the one-on-one conversation that followed was former National Security Advisor Michael Flynn, who had resigned the previous day. *Id.* at 4-5.

42. Director Comey “immediately prepared an unclassified memo of the conversation about Flynn and discussed the matter with FBI senior leadership.” Stmt. at 5. “We decided the best move would be to hold it, keep it in a box, document it, as we’d already done.” Tr. at 60.

43. Director Comey recalled nine one-on-one conversations in the four-month period between January 6, 2017 and April 11, 2017. Stmt. at 2. Three were in person, and six were “on the phone.” *Id.* He created records “after each of our nine conversations.” Tr. at 33. “If I didn’t, I did it for nearly all of them especially the ones that were substantive.” *Id.*

44. According to Director Comey, “I knew there might come a day when I would need a record of what had happened, not just to defend myself, but to defend the FBI and our integrity as an institution and the independence of our investigative function.” Tr. at 33; *see also id.* at 84 (“[I]t’s going to be important, to protect this organization, that I make records of this.”).

45. On Tuesday, May 9, 2017, the President fired Director Comey. Tr. at 15.

46. On Friday, May 12, 2017, Ex-Director Comey arranged for a friend to provide the February 14 Memo to a reporter to prompt the appointment of a special counsel. Tr. at 84. “My judgment was, I need to get that out into the public square. I asked a friend of mine to share the content of the memo with a reporter. Didn’t do it myself for a variety of reasons. I asked him to because I thought that might prompt the appointment of a special counsel.” *Id.* at 84-85; *see also id.* at 102 (“So I asked my friend, ‘make sure this gets out.’”).

47. Ex-Director Comey apparently removed copies of his memos from the FBI at some point because he gave a copy of the February 14 Memo to his friend to share with the media. Tr. at 112.

48. The friend was later identified as Columbia Law School Professor Daniel C. Richman. Tr. at 85.

49. The following day, Tuesday, May 16, 2017, The New York Times published a report about the February 14 Memo and its contents. Michael S. Schmidt, *Comey Memo Says Trump Asked Him to End Flynn Investigation*, N.Y. TIMES (May 16, 2017).<sup>1</sup>

50. That same day, Judicial Watch submitted a FOIA request to the FBI seeking the following:

The memorandum written by former Director James Comey memorializing his meeting and conversation with President Trump regarding the FBI's investigation of potential Russian interference in the 2016 United States presidential election. For purposes of clarification, this memorandum was reportedly written on or about February 13, 2017 and is the subject of a New York Times article (enclosed) dated May 16, 2017.

Hardy Decl. at para. 37. The request was served via the FBI's eFOIAP system and, accordingly, was received the same day it was sent. *Id.*

51. On May 17, 2017, Acting Attorney General Rod J. Rosenstein appointed a Special Counsel to investigate Russian interference with the 2016 presidential election and related matters, as Director Comey intended when he disclosed the February 14 Memo to the news media. Hardy Decl. at para. 4; Tr. at 84-85.

52. On June 8, 2017, Ex-Director Comey gave written and oral testimony to the Select Committee. *See generally* Stmt.; Tr. He testified at length about his practice of memorializing his one-on-one meetings with the President, their February 14, 2017 meeting, and the February 14 Memo prepared by Ex-Director Comey following that meeting. *Id.*

53. Ex-Director Comey's written testimony with respect to the February 14, 2017 meeting was as follows:

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<sup>1</sup> Plaintiff respectfully requests that the Court take judicial notice of the article's publication, which "can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b)(2).

When the door by the grandfather clock closed, and we were alone, the President began by saying, “I want to talk about Mike Flynn.” Flynn had resigned the previous day. The President began by saying Flynn hadn’t done anything wrong in speaking with the Russians, but he had to let him go because he had misled the Vice President. He added that he had other concerns about Flynn, which he did not specify.

The President then made a long series of comments about the problem with leaks of classified information – a concern I shared and still share. After he had spoken for a few minutes about leaks, Reince Priebus leaned in through the door by the grandfather clock and I could see a group of people waiting behind him. The President waived at him to close the door, saying he would be done shortly. The door closed.

The President then returned to the topic of Mike Flynn, saying, “He’s a good guy and has been through a lot.” He repeated that Flynn hadn’t done anything wrong on his calls with the Russians, but had misled the Vice President. He then said, “I hope you can see your way clear to letting this go, to letting Flynn go. He is a good guy. I hope you can let this go.” I replied only that “he is a good guy.” (In fact, I had a positive experience dealing with Mike Flynn when he was a colleague as Director of the Defense Intelligence Agency at the beginning of my term at FBI.) I did not say I would “let this go.”

The President returned briefly to the problem of leaks. I then got up and left out the door by the grandfather clock, making my way through the large group of people waiting there, including Mr. Priebus and the Vice President.

I immediately prepared an unclassified memo of the conversation about Flynn and discussed the matter with FBI senior leadership.

Stmt. at 4-5.

54. Ex-Director Comey testified orally that, when the February 14, 2017 meeting began, his “impression was, something big is about to happen.” Tr. at 40. “I need to remember every single word that is spoken.” *Id.*

55. When Ex-Director Comey was asked if he was quoting the President’s exact words, he responded, “Correct.” Tr. at 49; *see also id.* at 51 (“Those were his exact words, correct.”). Ex-Director Comey also testified that he remembered every word the President said, that he was very careful in choosing the words he used to respond to the President, and that he

remembered saying “I agree he’s a good guy.” *Id.* at 55; *see also id.* at 62. He chose his response “as a way of saying ‘I’m not agreeing with what you just asked me to do.’” *Id.* at 55.

56. According to Ex-Director Comey’s testimony, he wrote the February 14 Memo to be unclassified so that it could be discussed and shared more easily: “So my thinking was, if I write it in such a way that I don’t include anything that would trigger a classification, that’ll make it easier for us to discuss within the FBI and the government and to – to hold on to it in a way that makes it accessible to us.” Tr. at 41-42.

57. Ex-Director Comey also testified he reviewed his memos in preparing his written testimony. Tr. at 111.

Dated: November 3, 2017

Respectfully submitted,

/s/ Paul J. Orfanedes  
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*Counsel for Plaintiff*



## **EXHIBIT 1**

**Statement for the Record  
Senate Select Committee on Intelligence**

**James B. Comey**

**June 8, 2017**

Chairman Burr, Ranking Member Warner, Members of the Committee. Thank you for inviting me to appear before you today. I was asked to testify today to describe for you my interactions with President-Elect and President Trump on subjects that I understand are of interest to you. I have not included every detail from my conversations with the President, but, to the best of my recollection, I have tried to include information that may be relevant to the Committee.

January 6 Briefing

I first met then-President-Elect Trump on Friday, January 6 in a conference room at Trump Tower in New York. I was there with other Intelligence Community (IC) leaders to brief him and his new national security team on the findings of an IC assessment concerning Russian efforts to interfere in the election. At the conclusion of that briefing, I remained alone with the President-Elect to brief him on some personally sensitive aspects of the information assembled during the assessment.

The IC leadership thought it important, for a variety of reasons, to alert the incoming President to the existence of this material, even though it was salacious and unverified. Among those reasons were: (1) we knew the media was about to publicly report the material and we believed the IC should not keep knowledge of the material and its imminent release from the President-Elect; and (2) to the extent there was some effort to compromise an incoming President, we could blunt any such effort with a defensive briefing.

The Director of National Intelligence asked that I personally do this portion of the briefing because I was staying in my position and because the material implicated the FBI's counter-intelligence responsibilities. We also agreed I would do it alone to minimize potential embarrassment to the President-Elect. Although we agreed it made sense for me to do the briefing, the FBI's leadership and I were concerned that the briefing might create a situation where a new President came into office uncertain about whether the FBI was conducting a counter-intelligence investigation of his personal conduct.

It is important to understand that FBI counter-intelligence investigations are different than the more-commonly known criminal investigative work. The Bureau's goal in a counter-intelligence investigation is to understand the technical and human methods that hostile foreign powers are using to influence the United States or to steal our secrets. The FBI uses that understanding to disrupt those efforts. Sometimes disruption takes the form of alerting a person who is targeted for recruitment or influence by the foreign power. Sometimes it involves hardening a computer system that is being attacked. Sometimes it involves "turning" the recruited person into a double-agent, or publicly calling out the behavior with sanctions or expulsions of embassy-based intelligence officers. On occasion, criminal prosecution is used to disrupt intelligence activities.

Because the nature of the hostile foreign nation is well known, counter-intelligence investigations tend to be centered on individuals the FBI suspects to be witting or unwitting agents of that foreign power. When the FBI develops reason to believe an American has been targeted for recruitment by a foreign power or is covertly acting as an agent of the foreign power, the FBI will "open an investigation" on that American and use legal authorities to try to learn more about the nature of any relationship with the foreign power so it can be disrupted.

In that context, prior to the January 6 meeting, I discussed with the FBI's leadership team whether I should be prepared to assure President-Elect Trump that we were not investigating him personally. That was true; we did not have an open counter-intelligence case on him. We agreed I should do so if circumstances warranted. During our one-on-one meeting at Trump Tower, based on President-Elect Trump's reaction to the briefing and without him directly asking the question, I offered that assurance.

I felt compelled to document my first conversation with the President-Elect in a memo. To ensure accuracy, I began to type it on a laptop in an FBI vehicle outside Trump Tower the moment I walked out of the meeting. Creating written records immediately after one-on-one conversations with Mr. Trump was my practice from that point forward. This had not been my practice in the past. I spoke alone with President Obama twice in person (and never on the phone) – once in 2015 to discuss law enforcement policy issues and a second time, briefly, for him to say goodbye in late 2016. In neither of those circumstances did I memorialize the discussions. I can recall nine one-on-one conversations with President Trump in four months – three in person and six on the phone.

#### January 27 Dinner

The President and I had dinner on Friday, January 27 at 6:30 pm in the Green Room at the White House. He had called me at lunchtime that day and

invited me to dinner that night, saying he was going to invite my whole family, but decided to have just me this time, with the whole family coming the next time. It was unclear from the conversation who else would be at the dinner, although I assumed there would be others.

It turned out to be just the two of us, seated at a small oval table in the center of the Green Room. Two Navy stewards waited on us, only entering the room to serve food and drinks.

The President began by asking me whether I wanted to stay on as FBI Director, which I found strange because he had already told me twice in earlier conversations that he hoped I would stay, and I had assured him that I intended to. He said that lots of people wanted my job and, given the abuse I had taken during the previous year, he would understand if I wanted to walk away.

My instincts told me that the one-on-one setting, and the pretense that this was our first discussion about my position, meant the dinner was, at least in part, an effort to have me ask for my job and create some sort of patronage relationship. That concerned me greatly, given the FBI's traditionally independent status in the executive branch.

I replied that I loved my work and intended to stay and serve out my ten-year term as Director. And then, because the set-up made me uneasy, I added that I was not "reliable" in the way politicians use that word, but he could always count on me to tell him the truth. I added that I was not on anybody's side politically and could not be counted on in the traditional political sense, a stance I said was in his best interest as the President.

A few moments later, the President said, "I need loyalty, I expect loyalty." I didn't move, speak, or change my facial expression in any way during the awkward silence that followed. We simply looked at each other in silence. The conversation then moved on, but he returned to the subject near the end of our dinner.

At one point, I explained why it was so important that the FBI and the Department of Justice be independent of the White House. I said it was a paradox: Throughout history, some Presidents have decided that because "problems" come from Justice, they should try to hold the Department close. But blurring those boundaries ultimately makes the problems worse by undermining public trust in the institutions and their work.

Near the end of our dinner, the President returned to the subject of my job, saying he was very glad I wanted to stay, adding that he had heard great things

about me from Jim Mattis, Jeff Sessions, and many others. He then said, “I need loyalty.” I replied, “You will always get honesty from me.” He paused and then said, “That’s what I want, honest loyalty.” I paused, and then said, “You will get that from me.” As I wrote in the memo I created immediately after the dinner, it is possible we understood the phrase “honest loyalty” differently, but I decided it wouldn’t be productive to push it further. The term – honest loyalty – had helped end a very awkward conversation and my explanations had made clear what he should expect.

During the dinner, the President returned to the salacious material I had briefed him about on January 6, and, as he had done previously, expressed his disgust for the allegations and strongly denied them. He said he was considering ordering me to investigate the alleged incident to prove it didn’t happen. I replied that he should give that careful thought because it might create a narrative that we were investigating him personally, which we weren’t, and because it was very difficult to prove a negative. He said he would think about it and asked me to think about it.

As was my practice for conversations with President Trump, I wrote a detailed memo about the dinner immediately afterwards and shared it with the senior leadership team of the FBI.

#### February 14 Oval Office Meeting

On February 14, I went to the Oval Office for a scheduled counter-terrorism briefing of the President. He sat behind the desk and a group of us sat in a semi-circle of about six chairs facing him on the other side of the desk. The Vice President, Deputy Director of the CIA, Director of the National Counter-Terrorism Center, Secretary of Homeland Security, the Attorney General, and I were in the semi-circle of chairs. I was directly facing the President, sitting between the Deputy CIA Director and the Director of NCTC. There were quite a few others in the room, sitting behind us on couches and chairs.

The President signaled the end of the briefing by thanking the group and telling them all that he wanted to speak to me alone. I stayed in my chair. As the participants started to leave the Oval Office, the Attorney General lingered by my chair, but the President thanked him and said he wanted to speak only with me. The last person to leave was Jared Kushner, who also stood by my chair and exchanged pleasantries with me. The President then excused him, saying he wanted to speak with me.

When the door by the grandfather clock closed, and we were alone, the President began by saying, “I want to talk about Mike Flynn.” Flynn had resigned

the previous day. The President began by saying Flynn hadn't done anything wrong in speaking with the Russians, but he had to let him go because he had misled the Vice President. He added that he had other concerns about Flynn, which he did not then specify.

The President then made a long series of comments about the problem with leaks of classified information – a concern I shared and still share. After he had spoken for a few minutes about leaks, Reince Priebus leaned in through the door by the grandfather clock and I could see a group of people waiting behind him. The President waved at him to close the door, saying he would be done shortly. The door closed.

The President then returned to the topic of Mike Flynn, saying, "He is a good guy and has been through a lot." He repeated that Flynn hadn't done anything wrong on his calls with the Russians, but had misled the Vice President. He then said, "I hope you can see your way clear to letting this go, to letting Flynn go. He is a good guy. I hope you can let this go." I replied only that "he is a good guy." (In fact, I had a positive experience dealing with Mike Flynn when he was a colleague as Director of the Defense Intelligence Agency at the beginning of my term at FBI.) I did not say I would "let this go."

The President returned briefly to the problem of leaks. I then got up and left out the door by the grandfather clock, making my way through the large group of people waiting there, including Mr. Priebus and the Vice President.

I immediately prepared an unclassified memo of the conversation about Flynn and discussed the matter with FBI senior leadership. I had understood the President to be requesting that we drop any investigation of Flynn in connection with false statements about his conversations with the Russian ambassador in December. I did not understand the President to be talking about the broader investigation into Russia or possible links to his campaign. I could be wrong, but I took him to be focusing on what had just happened with Flynn's departure and the controversy around his account of his phone calls. Regardless, it was very concerning, given the FBI's role as an independent investigative agency.

The FBI leadership team agreed with me that it was important not to infect the investigative team with the President's request, which we did not intend to abide. We also concluded that, given that it was a one-on-one conversation, there was nothing available to corroborate my account. We concluded it made little sense to report it to Attorney General Sessions, who we expected would likely recuse himself from involvement in Russia-related investigations. (He did so two weeks later.) The Deputy Attorney General's role was then filled in an acting capacity by a United States Attorney, who would also not be long in the role.

After discussing the matter, we decided to keep it very closely held, resolving to figure out what to do with it down the road as our investigation progressed. The investigation moved ahead at full speed, with none of the investigative team members – or the Department of Justice lawyers supporting them – aware of the President’s request.

Shortly afterwards, I spoke with Attorney General Sessions in person to pass along the President’s concerns about leaks. I took the opportunity to implore the Attorney General to prevent any future direct communication between the President and me. I told the AG that what had just happened – him being asked to leave while the FBI Director, who reports to the AG, remained behind – was inappropriate and should never happen. He did not reply. For the reasons discussed above, I did not mention that the President broached the FBI’s potential investigation of General Flynn.

#### March 30 Phone Call

On the morning of March 30, the President called me at the FBI. He described the Russia investigation as “a cloud” that was impairing his ability to act on behalf of the country. He said he had nothing to do with Russia, had not been involved with hookers in Russia, and had always assumed he was being recorded when in Russia. He asked what we could do to “lift the cloud.” I responded that we were investigating the matter as quickly as we could, and that there would be great benefit, if we didn’t find anything, to our having done the work well. He agreed, but then re-emphasized the problems this was causing him.

Then the President asked why there had been a congressional hearing about Russia the previous week – at which I had, as the Department of Justice directed, confirmed the investigation into possible coordination between Russia and the Trump campaign. I explained the demands from the leadership of both parties in Congress for more information, and that Senator Grassley had even held up the confirmation of the Deputy Attorney General until we briefed him in detail on the investigation. I explained that we had briefed the leadership of Congress on exactly which individuals we were investigating and that we had told those Congressional leaders that we were not personally investigating President Trump. I reminded him I had previously told him that. He repeatedly told me, “We need to get that fact out.” (I did not tell the President that the FBI and the Department of Justice had been reluctant to make public statements that we did not have an open case on President Trump for a number of reasons, most importantly because it would create a duty to correct, should that change.)

The President went on to say that if there were some “satellite” associates of his who did something wrong, it would be good to find that out, but that he

hadn't done anything wrong and hoped I would find a way to get it out that we weren't investigating him.

In an abrupt shift, he turned the conversation to FBI Deputy Director Andrew McCabe, saying he hadn't brought up "the McCabe thing" because I had said McCabe was honorable, although McAuliffe was close to the Clintons and had given him (I think he meant Deputy Director McCabe's wife) campaign money. Although I didn't understand why the President was bringing this up, I repeated that Mr. McCabe was an honorable person.

He finished by stressing "the cloud" that was interfering with his ability to make deals for the country and said he hoped I could find a way to get out that he wasn't being investigated. I told him I would see what we could do, and that we would do our investigative work well and as quickly as we could.

Immediately after that conversation, I called Acting Deputy Attorney General Dana Boente (AG Sessions had by then recused himself on all Russia-related matters), to report the substance of the call from the President, and said I would await his guidance. I did not hear back from him before the President called me again two weeks later.

#### April 11 Phone Call

On the morning of April 11, the President called me and asked what I had done about his request that I "get out" that he is not personally under investigation. I replied that I had passed his request to the Acting Deputy Attorney General, but I had not heard back. He replied that "the cloud" was getting in the way of his ability to do his job. He said that perhaps he would have his people reach out to the Acting Deputy Attorney General. I said that was the way his request should be handled. I said the White House Counsel should contact the leadership of DOJ to make the request, which was the traditional channel.

He said he would do that and added, "Because I have been very loyal to you, very loyal; we had that thing you know." I did not reply or ask him what he meant by "that thing." I said only that the way to handle it was to have the White House Counsel call the Acting Deputy Attorney General. He said that was what he would do and the call ended.

That was the last time I spoke with President Trump.

# # #



## **EXHIBIT 2**



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# Transcript of Senate Intelligence Committee Hearing

**Date:** June 8, 2017

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AUDIO TRANSCRIPTION OF TESTIMONY OF JAMES COMEY

BEFORE THE

SENATE SELECT COMMITTEE ON INTELLIGENCE

JUNE 8, 2017

Job No. 155272

Pages: 1-176

Transcribed by: Annette M. Montalvo, CSR, RDR, CRR

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1 (WHEREUPON, the following was transcribed  
2 from an audio recording, to wit:)

3 CHAIRMAN SENATOR RICHARD BURR (R-NC): I'd  
4 like to call this hearing to order.

5 Director Comey, and I appreciate your  
6 willingness to appear before the committee today,  
7 and, more importantly, I thank you for your  
8 dedicated service and leadership to the Federal  
9 Bureau of Investigation. Your appearance today  
10 speaks to the trust we have built over the years,  
11 and I'm looking forward to a very open and candid  
12 discussion today.

13 I'd like to remind my colleagues that we  
14 will reconvene in closed session at 1:00 p.m. today,  
15 and I ask that you reserve for that venue any  
16 questions that might get into classified  
17 information. The director's been very gracious with  
18 his time, but the Vice Chairman and I have worked  
19 out a very specific timeline for his commitment to  
20 be on the Hill, so we will do everything we can to  
21 meet that agreement.

22 The Senate Select Committee on Intelligence

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1 exists to certify for the other 85 members of the  
2 United States Senate and the American people that  
3 the intelligence community is operating lawfully and  
4 has the necessary authorities and tools to  
5 accomplish its mission and keep America safe. Part  
6 of our mission, beyond the oversight we continue to  
7 provide to the intelligence community and its  
8 activities, is to investigate Russian interference  
9 in the 2016 U.S. elections. The committee's work  
10 continues. This hearing represents part of that  
11 effort.

12 Jim, allegations have been swirling in the  
13 press for the last several weeks, and today's your  
14 opportunity to set the record straight. Yesterday I  
15 read with interest your statement for the record,  
16 and I think it provides some helpful details  
17 surrounding your interactions with the President.

18 It clearly lays out your understanding of  
19 those discussions, actions you took following each  
20 conversation, and your state of mind. I very much  
21 appreciate your candor, and I think it's helpful as  
22 we work through to determine the ultimate truth

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1 behind possible Russian interference in the 2016  
2 elections.

3 Your statement also provides texture and  
4 context to your interactions with the President from  
5 your vantage point and outlines a strained  
6 relationship. The American people need to hear your  
7 side of the story just as they need to hear the  
8 President's descriptions of events.

9 These interactions also highlight the  
10 importance of the committee's ongoing investigation.  
11 Our experienced staff is interviewing all relevant  
12 parties and some of the most sensitive intelligence  
13 in our country's possession.

14 We will establish the facts, separate from  
15 rampant speculation, and lay them out for the  
16 American people to make their own judgment. Only  
17 then will we as a nation be able to move forward and  
18 to put this episode to rest.

19 There's several outstanding issues not  
20 addressed in your statement that I hope you'll clear  
21 up for the American people today. Did the  
22 President's request for loyalty, your impression,

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1 that -- that the one-on-one dinner of January 27th  
2 was, and I quote, at least in part an effort to  
3 create some sort of patronage relationship, or his  
4 March 30th phone call asking what you could do to  
5 lift the cloud of Russia investigation in any way,  
6 alter your approach of the FBI's investigation into  
7 General Flynn, or the broader investigation into  
8 Russia and possible links to the campaign. In your  
9 opinion, did potential Russian efforts to establish  
10 links with individuals in the Trump orbit rise to  
11 the level we could define as collusion? Or was it a  
12 counterintelligence concern?

13       There's been a significant public  
14 speculation about your decision-making related to  
15 the Clinton e-mail investigation. Why did you  
16 decide publicly -- to publicly announce FBI's  
17 recommendations that the Department of Justice not  
18 pursue criminal charges? You have described it as a  
19 choice between a bad decision and a worse decision.  
20 The American people need to understand the facts  
21 behind your action.

22       This committee is uniquely suited to

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1 investigate Russia's interference in the 2016  
2 elections. We also have a unified, bipartisan  
3 approach to what is a highly charged partisan issue.  
4 Russian activities during 2016 election may have  
5 been aimed at one party's candidate, but as my  
6 colleague Senator Rubio says frequently, in 2018 and  
7 2020, it could be aimed at anyone, at home or  
8 abroad.

9 My colleague Senator Warner and I have  
10 worked in -- have worked to stay in lockstep on this  
11 investigation. We've had our differences on  
12 approach, at times, but I've constantly stressed  
13 that we need to be a team, and I think Senator  
14 Warner agrees with me.

15 We must keep these questions above politics  
16 and partisanship. It's too important to be tainted  
17 by anyone trying to score political points.

18 With that, again, I welcome you, Director,  
19 and I turn to the Vice Chairman for any comments he  
20 might have.

21 SENATOR MARK WARNER (D-VA): Well, thank  
22 you, Mr. Chairman.



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1           And let me start by again actually thanking  
2 all the members of the committee for the seriousness  
3 in which they've taken on this task.

4           Mr. Comey, thank you for agreeing to come  
5 testify as part of this committee's investigation  
6 into Russia. I realize that this hearing has been,  
7 obviously, the focus of a lot of Washington in the  
8 last few days. But the truth is, many Americans who  
9 may be tuning in today probably haven't focused on  
10 every twist and turn of the investigation.

11           So I'd like to briefly describe, at least  
12 from this senator's standpoint, what we already know  
13 and what we're still investigating. To be clear,  
14 this whole investigation is not about relitigating  
15 the election. It's not about who won or lost. And  
16 it sure as heck is not about Democrats versus  
17 Republicans.

18           We're here because a foreign adversary  
19 attacked us right here at home, plain and simple,  
20 not by guns or missiles, but by foreign operatives  
21 seeking to hijack our most important democratic  
22 process, our presidential election.

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1 Russian spies engaged in a series of online  
2 cyber raids and a broad campaign of disinformation,  
3 all ultimately aimed at sowing chaos to undermine  
4 public faith in our process, in our leadership, and,  
5 ultimately, in ourselves. And that's not just this  
6 senator's opinion. It is the unanimous  
7 determination of the entire U.S. intelligence  
8 community. So we must find out the full story, what  
9 the Russians did, and, candidly, as some other  
10 colleagues have mentioned, why they were so  
11 successful. And, more importantly, we must  
12 determine the necessary steps to take to protect our  
13 democracy and ensure they can't do it again.

14 The Chairman mentioned elections in 2018 and  
15 2020. In my home state of Virginia, we have  
16 elections this year, in 2017. Simply put, we cannot  
17 let anything or anyone prevent us from getting to  
18 the bottom of this.

19 Now, Mr. Comey, let me say at the outset, we  
20 haven't always agreed on every issue. In fact, I've  
21 occasionally questioned some of the actions you've  
22 taken. But I've never had any reason to question

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1 your integrity, your expertise, or your  
2 intelligence. You've been a straight shooter with  
3 this committee and have been willing to speak truth  
4 to power, even at the risk of your own career, which  
5 makes the way in which you were fired by the  
6 President ultimately shocking.

7 Recall, we began this entire process with  
8 the President and his staff first denying that the  
9 Russians were ever involved, and then falsely  
10 claiming that no one from his team was ever in touch  
11 with any Russians.

12 We know that's just not the truth. Numerous  
13 Trump associates had undisclosed contacts with  
14 Russians before and after the election, including  
15 the President's attorney general, his former  
16 national security adviser, and his current senior  
17 adviser, Mr. Kushner.

18 That doesn't even begin to count the host of  
19 additional campaign associates and advisers who've  
20 also been caught up in this massive web. We saw  
21 Mr. Trump's campaign manager, Mr. Manafort, forced  
22 to step down over ties to Russian-backed entities.

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1 The national security adviser, General Flynn, had to  
2 resign over his lies about engagements with the  
3 Russians. And we saw the candidate himself express  
4 an odd and unexplained affection for the Russian  
5 dictator, while calling for the hacking of his  
6 opponent. There's a lot to investigate. Enough, in  
7 fact, that then Director Comey publicly acknowledged  
8 that he was leading an investigation into those  
9 links between Mr. Trump's campaign and the Russian  
10 government.

11 As the director of the FBI, Mr. Comey was  
12 ultimately responsible for conducting that  
13 investigation, which might explain why you're  
14 sitting now as a private citizen.

15 What we didn't know was at the same time  
16 that this investigation was proceeding, the  
17 President himself appears to have been engaged in an  
18 effort to influence, or at least co-opt, the  
19 director of the FBI.

20 The testimony that Mr. Comey has submitted  
21 for today's hearing is very disturbing. For  
22 example, on January 27th, after summoning Director

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1     Comey to dinner, the President appears to have  
2     threatened the director's job while telling him,  
3     quote, I need loyalty. I expect loyalty.

4             At a later meeting on February 14th, the  
5     President asked the attorney general to leave the  
6     Oval Office so that he could privately ask Director  
7     Comey, again, quote, to see way clear to letting  
8     Flynn go.

9             That is a statement that Director Comey  
10    interpreted as a -- as a request that he drop the  
11    investigation connected to General Flynn's false  
12    statements. Think about it: The President of the  
13    United States asking the FBI director to drop an  
14    ongoing investigation. And, after that, the  
15    President called the FBI director on two additional  
16    occasions, March 30th and April 11th, and asked him  
17    again, quote, "to lift the cloud" on the Russian  
18    investigation.

19            Now, Director Comey denied each of these  
20    improper requests. The loyalty pledge, the  
21    admonition to drop the Flynn investigation, the  
22    request to lift the cloud on the Russia

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1 investigation. Of course, after his refusals,  
2 Director Comey was fired.

3 The initial explanation for the firing  
4 didn't pass any smell test. So now Director Comey  
5 was fired because he didn't treat Hillary Clinton  
6 appropriately. Of course, that explanation lasted  
7 about a day, because the President himself then made  
8 very clear that he was thinking about Russia when he  
9 decided to fire Director Comey.

10 Shockingly, reports suggest that the  
11 President admitted as much in an Oval Office meeting  
12 with the Russians the day after Director Comey was  
13 fired, disparaging our country's top law enforcement  
14 official as a, quote-unquote, nut job. The  
15 President allegedly suggested that his firing  
16 relieved great pressure on his feelings about  
17 Russia.

18 This is not happening in isolation. At the  
19 same time the President was engaged in these efforts  
20 with Director Comey, he was also, at least  
21 allegedly, asking senior leaders of the intelligence  
22 community to downplay the Russia investigation or to

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1 intervene with the director.

2 Yesterday we had DNI Director Coats and NSA  
3 Director Admiral Rogers, who were offered a number  
4 of opportunities to flatly deny those press reports.  
5 They expressed their opinions, but they did not take  
6 that opportunity to deny those reports. They did  
7 not take advantage of that opportunity. In my  
8 belief, that's not how the President of the United  
9 States should behave.

10 Regardless of the outcome of our  
11 investigation into the Russia links, Director  
12 Comey's firing and his testimony raise separate and  
13 troubling questions that we must get to the bottom  
14 of. Again, as I said at the outset, I've seen  
15 firsthand how seriously every member of this  
16 committee is taking his work. I'm proud of the  
17 committee's efforts so far.

18 Let me be clear: This is not a witch hunt.  
19 This is not fake news. It is an effort to protect  
20 our country from a new threat that, quite honestly,  
21 will not go away any time soon.

22 So, Mr. Comey, your testimony here today

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1 will help us move towards that goal. I look forward  
2 to that testimony.

3 Thank you, Mr. Chairman.

4 CHAIRMAN BURR: Thank you, Vice Chairman.

5 Director, as discussed when you agreed to  
6 appear before the committee, it would be under oath.  
7 I'd ask you to please stand. Raise your right hand.

8 Do you solemnly swear to tell the truth, the  
9 whole truth, and nothing but the truth, so help you  
10 God?

11 MR. COMEY (off mike): I do.

12 CHAIRMAN BURR: Please be seated.

13 Director Comey, you're now under oath.

14 And I would just note to members, you will  
15 be recognized by seniority for a period up to seven  
16 minutes. And, again, it is the intent to move to a  
17 closed session no later than 1:00 p.m.

18 With that, Director Comey, you are  
19 recognized. You have the floor for as long as you  
20 might need.

21 MR. COMEY: Thank you, Mr. Chairman.

22 Ranking Member Warner, members of the committee,



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1 thank you for inviting me here to testify today.

2 I've submitted my statement for the record  
3 and I'm not going to repeat it here this morning. I  
4 thought I would just offer some very brief  
5 introductory remarks, and then I would welcome your  
6 questions.

7 When I was appointed FBI director in 2013, I  
8 understood that I served at the pleasure of the  
9 President. Even though I was appointed to a 10-year  
10 term, which Congress created in order to underscore  
11 the importance of the FBI being outside of politics  
12 and independent, I understood that I could be fired  
13 by a president for any reason or for no reason at  
14 all.

15 And on May the 9th, when I learned that I  
16 had been fired, for that reason, I immediately came  
17 home as a private citizen. But then, the  
18 explanations, the shifting explanations, confused me  
19 and increasingly concerned me.

20 They confused me because the President and I  
21 had had multiple conversations about my job, both  
22 before and after he took office. And he had

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1 repeatedly told me I was doing a great job and he  
2 hoped I would stay. And I had repeatedly assured  
3 him that I did intend to stay and serve out the  
4 remaining six years of my term. He told me  
5 repeatedly that he had talked to lots of people  
6 about me, including our current attorney general,  
7 and had learned that I was doing a great job and  
8 that I was extremely well-liked by the FBI  
9 workforce.

10 So it confused me when I saw on television  
11 the President saying that he actually fired me  
12 because of the Russia investigation and learned,  
13 again from the media, that he was telling, privately  
14 other parties that my firing had relieved great  
15 pressure on the Russia investigation.

16 I was also confused by the initial  
17 explanation that was offered publicly, that I was  
18 fired because of the decisions I had made during the  
19 election year. That didn't make sense to me for a  
20 whole bunch of reasons, including the time and all  
21 the water that had gone under the bridge since those  
22 hard decisions that had to be made. That didn't

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1 make any sense to me.

2 And although the law required no reason at  
3 all to fire an FBI director, the administration then  
4 chose to defame me and, more importantly, the FBI by  
5 saying that the organization was in disarray, that  
6 it was poorly led, that the workforce had lost  
7 confidence in its leader.

8 Those were lies, plain and simple, and I am  
9 so sorry that the FBI workforce had to hear them and  
10 I'm so sorry that the American people were told  
11 them.

12 I worked every day at the FBI to help make  
13 that great organization better. And I say "help"  
14 because I did nothing alone at the FBI. There are  
15 no indispensable people at the FBI. The  
16 organization's great strength is that its values and  
17 abilities run deep and wide. The FBI will be fine  
18 without me. The FBI's mission will be relentlessly  
19 pursued by its people, and that mission is to  
20 protect the American people and uphold the  
21 Constitution of the United States. I will deeply  
22 miss being part of that mission, but this

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1 organization and its mission will go on long beyond  
2 me and long beyond any particular administration.

3 I have a message before I close for the --  
4 my former colleagues at the FBI. But, first, I want  
5 the American people to know this truth: The FBI is  
6 honest. The FBI is strong. And the FBI is, and  
7 always will be, independent.

8 And now to my former colleagues, if I may.  
9 I am so sorry that I didn't get the chance to say  
10 goodbye to you properly. It was the honor of my  
11 life to serve beside you, to be part of the FBI  
12 family, And I will miss it for the rest of my life.  
13 Thank you for standing watch. Thank you for doing  
14 so much good for this country. Do that good as long  
15 as ever you can.

16 And, Senators, I look forward to your  
17 questions.

18 CHAIRMAN BURR: Director, thank you for that  
19 testimony, both oral and the written testimony that  
20 you provided to the committee yesterday and made  
21 public to the American people.

22 The Chair would recognize himself, first,

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1 for 12 minutes, Vice Chair for 12 minutes, based  
2 upon the agreement we have.

3 Director, did the Special Counsel's Office  
4 review and/or edit your written testimony?

5 MR. COMEY: No.

6 CHAIRMAN BURR: Do you have any doubt that  
7 Russia attempted to interfere in the 2016 elections?

8 MR. COMEY: None.

9 CHAIRMAN BURR: Do you have any doubt that  
10 the Russian government was behind the intrusions in  
11 the DNC and the DCCC systems and the subsequent  
12 leaks of that information?

13 MR. COMEY: No, no doubt.

14 CHAIRMAN BURR: Do you have any doubt that  
15 the Russian government was behind the cyber  
16 intrusion in the state voter files?

17 MR. COMEY: No.

18 CHAIRMAN BURR: Do you have any doubt that  
19 officials of the Russian government were fully aware  
20 of these activities?

21 MR. COMEY: No doubt.

22 CHAIRMAN BURR: Are you confident that no

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1 votes cast in the 2016 presidential election were  
2 altered?

3 MR. COMEY: I'm confident. By the time --  
4 when I left as director, I had seen no indication of  
5 that whatsoever.

6 CHAIRMAN BURR: Director Comey, did the  
7 President at any time ask you to stop the FBI  
8 investigation into Russian involvement in the 2016  
9 U.S. elections?

10 MR. COMEY: Not to my understanding, no.

11 CHAIRMAN BURR: Did any individual working  
12 for this administration, including the Justice  
13 Department, ask you to stop the Russian  
14 investigation?

15 MR. COMEY: No.

16 CHAIRMAN BURR: Director, when the President  
17 requested that you, and I quote, let Flynn go,  
18 General Flynn had an unreported contact with the  
19 Russians, which is an offense. And if press  
20 accounts are right, there might have been  
21 discrepancies between facts and his FBI testimony.

22 In your estimation, was General Flynn at

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1 that time in serious legal jeopardy? And in  
2 addition to that, do you sense that the President  
3 was trying to obstruct justice or just seek for a  
4 way for Mike Flynn to save face, given he had  
5 already been fired?

6 MR. COMEY: General Flynn at that point in  
7 time was in legal jeopardy. There was an open FBI  
8 criminal investigation of his statements in  
9 connection with the Russian contacts and the  
10 contacts themselves. And so that was my assessment  
11 at the time.

12 I don't think it's for me to say whether the  
13 conversation I had with the President was an effort  
14 to obstruct. I took it as a very disturbing thing,  
15 very concerning, but that's a conclusion I'm sure  
16 the special counsel will work towards, to try and  
17 understand what the intention was there, and whether  
18 that's an offense.

19 CHAIRMAN BURR: Director, is it possible  
20 that as part of this FBI investigation, the FBI  
21 could find evidence of criminality that is not tied  
22 to -- to the 2016 elections, possible collusion, or

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1 coordination with Russians?

2 MR. COMEY: Sure.

3 CHAIRMAN BURR: So there could be something  
4 that just fits a criminal aspect to this that  
5 doesn't have anything to do with the 2016 election  
6 cycle?

7 MR. COMEY: Correct. In any complex  
8 investigation, when you start turning over rocks,  
9 sometimes you find things that are --

10 VOICE: (Off mike) Amen.

11 MR. COMEY: -- unrelated to the primary  
12 investigation that are criminal in nature.

13 CHAIRMAN BURR: Director Comey, you have  
14 been criticized publicly for the decision to present  
15 your findings on the e-mail investigation directly  
16 to the American people. Have you learned anything  
17 since that time that would've changed what you said  
18 or how you chose to inform the American people?

19 MR. COMEY: Honestly, no. I mean, it caused  
20 a whole lot of personal pain for me, but as I look  
21 back, given what I knew at the time and even what  
22 I've learned since, I think it was the best way to



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1 try and protect the justice institution, including  
2 the FBI.

3 CHAIRMAN BURR: In the public domain is this  
4 question of the Steele dossier, a document that has  
5 been around, now, for over a year. I'm not sure  
6 when the FBI first took possession of it, but the  
7 media had it before you had it and we had it.

8 At the time of your departure from the FBI,  
9 was the FBI able to confirm any criminal allegations  
10 contained in the Steele document?

11 MR. COMEY: Mr. Chairman, I don't think  
12 that's a question I can answer in an open setting  
13 because it goes into the details of the  
14 investigation.

15 CHAIRMAN BURR: Director, the term we hear  
16 most often is "collusion." When people are  
17 describing possible links between Americans and  
18 Russian government entities related to the  
19 interference in our election, would you say that  
20 it's normal for foreign governments to reach out to  
21 members of an incoming administration?

22 MR. COMEY: Yes.

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1           CHAIRMAN BURR: At what point does the  
2 normal contact cross the line into an attempt to  
3 recruit agents or influence or spies?

4           MR. COMEY: Difficult to say in the  
5 abstract. It depends upon the context, whether  
6 there's an effort to keep it covert, what the nature  
7 of the requests made of the American by the foreign  
8 government are. It's a -- it's a judgment call  
9 based on a whole lot of facts.

10          CHAIRMAN BURR: At what point would that  
11 recruitment become a counterintelligence threat to  
12 our country?

13          MR. COMEY: Again, difficult to answer in  
14 the abstract. But when -- when a foreign power is  
15 using especially coercion or some sort of pressure  
16 to try and co-opt an American, especially a  
17 government official to act on its behalf, that's a  
18 serious concern to the FBI and at the heart of the  
19 FBI's counterintelligence mission.

20          CHAIRMAN BURR: So if you've got a -- a -- a  
21 36-page document of -- of specific claims that are  
22 out there, the FBI would have to, for

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1 counterintelligence reasons, try to verify anything  
2 that might be claimed in there, one, and probably  
3 first and foremost, is the counterintelligence  
4 concerns that we have about blackmail? Would that  
5 be an accurate statement?

6 MR. COMEY: Yes. If the FBI receives a  
7 credible allegation that there is some effort to  
8 co-opt, coerce, direct, employ covertly an American  
9 on behalf of the foreign power, that's the basis on  
10 which a counterintelligence investigation is opened.

11 CHAIRMAN BURR: And when you read the  
12 dossier, what was your reaction, given that it was  
13 100 percent directed at the President-elect?

14 MR. COMEY: Not a question I can answer in  
15 an open setting, Mr. Chairman.

16 CHAIRMAN BURR: Okay. When did you become  
17 aware of the cyber intrusion?

18 MR. COMEY: The first cyber -- it was all  
19 kinds of cyber intrusions going on all the time.  
20 The first Russia-connected cyber intrusion, I became  
21 aware of in the late summer of 2015.

22 CHAIRMAN BURR: And in that timeframe, there

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1 were more than the DNC and the DCCC that were  
2 targets?

3 MR. COMEY: Correct. There was a massive  
4 effort to target government and nongovernmental --  
5 near-governmental agencies like nonprofits.

6 CHAIRMAN BURR: What would be the estimate  
7 of how many entities out there the Russians  
8 specifically targeted in that timeframe?

9 MR. COMEY: It's hundreds. I suppose it  
10 could be more than 1,000, but it's at least  
11 hundreds.

12 CHAIRMAN BURR: When did you become aware  
13 that data had been exfiltrated?

14 MR. COMEY: I'm not sure, exactly. I think  
15 either late '15 or early '16.

16 CHAIRMAN BURR: And did -- did you, the  
17 director of the FBI, have conversations with the  
18 last administration about the risk that this posed?

19 MR. COMEY: Yes.

20 CHAIRMAN BURR: And share with us, if you  
21 will, what actions they took.

22 MR. COMEY: Well, the FBI had already

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1 undertaken an effort to notify all the victims, and  
2 that's what we consider the entities that were  
3 attacked as part of this massive spear phishing  
4 campaign. And so we notified them in an effort to  
5 disrupt what might be ongoing.

6 Then there was a series of continuing  
7 interactions with entities through the rest of '15  
8 into '16, and then throughout '16 the Administration  
9 was trying to decide how to respond to the intrusion  
10 activity that it saw.

11 CHAIRMAN BURR: And the FBI, in this case,  
12 unlike other cases that you might investigate -- did  
13 you ever have access to the actual hardware that was  
14 hacked? Or did you have to rely on a third party to  
15 provide you the data that they had collected?

16 MR. COMEY: In the case of the DNC, and, I  
17 believe, the DCCC, but I'm sure the DNC, we did not  
18 have access to the devices themselves. We got  
19 relevant forensic information from a private party,  
20 a high-class entity, that had done the work. But we  
21 didn't get direct access.

22 CHAIRMAN BURR: But no content?

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1 MR. COMEY: Correct.

2 CHAIRMAN BURR: Isn't content an important  
3 part of the forensics, from a counterintelligence  
4 standpoint?

5 MR. COMEY: It is, although what was briefed  
6 to me by my folks, the people who were my folks at  
7 the time, is that they had gotten the information  
8 from the private party that they needed to  
9 understand the intrusion by the spring of 2016.

10 CHAIRMAN BURR: Let me go back, if I can,  
11 very briefly, to the decision to publicly go out  
12 with your results on the e-mail.

13 Was your decision influenced by the attorney  
14 general's tarmac meeting with the former President  
15 Bill Clinton?

16 MR. COMEY: Yes. In -- in an ultimately  
17 conclusive way, that was the thing that capped it  
18 for me, that I had to do something separately to  
19 protect the credibility of the investigation, which  
20 meant both the FBI and the Justice Department.

21 CHAIRMAN BURR: Were there other things that  
22 contributed to that that you can describe in an open

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1 session?

2 MR. COMEY: There were other things that  
3 contributed to that. One significant item I can't,  
4 I know the committee's been briefed on. There's  
5 been some public accounts of it which are nonsense,  
6 but I understand the committee's been briefed on the  
7 classified facts.

8 Probably the only other consideration that I  
9 guess I can talk about in an open setting is, at one  
10 point, the attorney general had directed me not to  
11 call it an investigation, but instead to call it a  
12 matter, which confused me and concerned me. But  
13 that was one of the bricks in the load that led me  
14 to conclude, I have to step away from the department  
15 if we're to close this case credibly.

16 CHAIRMAN BURR: Director, my last question:  
17 You're not only a seasoned prosecutor, you've led  
18 the FBI for years. You understand the investigative  
19 process. You've worked with this committee closely,  
20 and we're grateful to you because I think we've --  
21 we've mutually built trust in what your organization  
22 does and -- and what we do.

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1           Is there any doubt in your mind that this  
2       committee can carry out its oversight role in the  
3       2016 Russian involvement in the elections in  
4       parallel with the now special counsel that's been  
5       set up?

6           MR. COMEY: No -- no doubt. It can be done.  
7       It requires lots of conversations, but Bob Mueller  
8       is one of this country's great, great pros, And I'm  
9       sure you all will be able to work it out with him,  
10      to run it in parallel.

11          CHAIRMAN BURR: I want to thank you once  
12      again, and I want to turn to the vice chairman.

13          VICE CHAIRMAN SENATOR MARK WARNER (D-VA):  
14      Thank you, Mr. Chairman.

15          And, again, Director Comey, thank you for  
16      your service, and your comments to your FBI family I  
17      know were heartfelt. Know that even though there  
18      are some in the Administration who've tried to smear  
19      your reputation, you had Acting Director McCabe in  
20      public testimony a few weeks back and in public  
21      testimony yesterday reaffirm that the vast majority  
22      of the FBI community had great trust in your



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1 leadership and, obviously, trust in your integrity.

2 I want to go through a number of the  
3 meetings that you referenced in your testimony. And  
4 let's start with the January 6th meeting in Trump  
5 Tower, where you went up with a series of officials  
6 to brief the President-elect on the Russia  
7 investigation. My understanding is you remained  
8 afterwards to brief him on, again, quote, some  
9 personally sensitive aspects of the information you  
10 relayed.

11 Now, you said after that briefing you felt  
12 compelled to document that conversation, that you  
13 actually started documenting it soon as you got into  
14 the car.

15 Now, you've had extensive experience at the  
16 Department of Justice and at the FBI. You've worked  
17 under presidents of both parties. What was it about  
18 that meeting that led you to determine that you  
19 needed to start putting down a written record?

20 MR. COMEY: A combination of things. I  
21 think the circumstances, the subject matter and the  
22 person I was interacting with. Circumstances,

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1 first, I was alone with the President of the United  
2 States -- or the President-elect, soon to be  
3 President. The subject matter, I was talking about  
4 matters that touch on the FBI's core responsibility  
5 and that relate to the President, President-elect  
6 personally. And then the nature of the person. I  
7 was honestly concerned that he might lie about the  
8 nature of our meeting, and so I thought it really  
9 important to document.

10 That combination of things, I'd never  
11 experienced before, but it led me to believe I've  
12 got to write it down, and I've got to write it down  
13 in a very detailed way.

14 SENATOR WARNER: I think that's a very  
15 important statement you just made. And my  
16 understanding is that then, again, unlike your  
17 dealings with presidents of either parties in your  
18 past experience, in every subsequent meeting or  
19 conversation with this President, you created a  
20 written record.

21 Did you feel that you needed to create this  
22 written record or these memos because they might

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1     need to be relied on at some future date?

2             MR. COMEY: Sure. I created records after  
3     conversations, and I think I did it after each of  
4     our nine conversations. If I didn't, I did it for  
5     nearly all of them, especially the ones that were  
6     substantive.

7             I knew that there might come a day when I  
8     would need a record of what had happened, not just  
9     to defend myself, but to defend the FBI and -- and  
10    our integrity as an institution and the independence  
11    of our investigative function. That's what made  
12    this so -- so difficult, is it was a combination of  
13    circumstances, subject matter, and the particular  
14    person.

15            SENATOR WARNER: And so in all your  
16    experience, this was the only president that you  
17    felt like, in every meeting, you needed to document,  
18    because at some point, using your words, he might  
19    put out a non-truthful representation of that  
20    meeting?

21            Now, Mark --

22            MR. COMEY: That's right, Senator.

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1           And I -- I -- as I said in my written  
2     testimony, as FBI director, I interacted with  
3     President Obama. I spoke only twice in three years,  
4     and didn't document it. When I was deputy attorney  
5     general, I had one one-on-one meeting with President  
6     Bush about a very important and difficult national  
7     security matter. I didn't write a memo documenting  
8     that conversation either. Sent a quick e-mail to my  
9     staff to let them know there was something going on,  
10    but I didn't feel, with President Bush, the need to  
11    document it in that way. Again, because of the  
12    combination of those factors just wasn't present  
13    with either President Bush or President Obama.

14           SENATOR WARNER: I -- I think that is very  
15    significant. I think others will probably question  
16    that.

17           Now, our -- the Chairman and I have  
18    requested those memos. It is our hope that the FBI  
19    will get this committee access to those memos so  
20    that, again, we can read that contemporaneous  
21    rendition so that we've got your side of the story.

22           Now, I know members have said, and press

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1 have said, that if you were -- a great deal's been  
2 made of whether the President -- you were asked to,  
3 in effect, indicate whether the President was the  
4 subject of any investigation.

5 And my understanding is, prior to your  
6 meeting on January 6th, you discussed with your  
7 leadership team whether or not you should be  
8 prepared to assure then President-Elect Trump that  
9 the FBI was not investigating him personally.

10 Now, my understanding is your leadership  
11 team agreed with that. But was that a unanimous  
12 decision? Was there any debate about that?

13 MR. COMEY: Was it unanimous? One of the  
14 members of the leadership team had a view that  
15 although it was technically true, we did not have a  
16 counterintelligence file case open on  
17 then-President-elect Trump.

18 His concern was because we're looking at the  
19 potential -- again, that's the subject of the  
20 investigation -- coordination between the campaign  
21 and Russia, because it was President Trump --  
22 President-elect Trump's campaign, this person's view

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1 was, inevitably, his behavior, his conduct, will  
2 fall within the scope of that work. And so he was  
3 reluctant to make the statement that I made. I  
4 disagreed. I thought it was fair to say what was  
5 literally true: There is not a counterintelligence  
6 investigation of Mr. Trump. And I decided, in the  
7 moment, to say it, given the nature of our  
8 conversation.

9 SENATOR WARNER: At that moment in time.  
10 Did you ever revisit that as a -- in -- in these  
11 subsequent sessions?

12 MR. COMEY: With the FBI leadership team?

13 SENATOR WARNER: With the team -- with your  
14 team.

15 MR. COMEY: Sure, and -- and the -- the  
16 leader who had that view, it didn't change. His  
17 view was still that it was probably -- although  
18 literally true, his concern was it could be  
19 misleading, because the nature of the investigation  
20 was such that it might well touch -- obviously, it  
21 would touch the campaign, and the person at the head  
22 of the campaign would be the candidate. And so that

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1 was his view throughout.

2 SENATOR WARNER: Let me move to the January  
3 27th dinner, where you said, quote, The President  
4 began by asking me whether I wanted to stay on as  
5 FBI director. He also indicated that lots of  
6 people -- again, your words -- wanted the job.

7 You go on to say that the dinner itself was  
8 seemingly an effort to, quote, to have you ask him  
9 for your job, and create some sort of,  
10 quote-unquote, patronage relationship.

11 The President seems, from my reading of your  
12 memo, to be holding your job, or your possibility of  
13 continuing in your job, over your head in a fairly  
14 direct way. What was your impression, and what did  
15 you mean by this notion of a patronage relationship?

16 MR. COMEY: Well, my impression, and, again,  
17 it's my impression, I could always be wrong. But my  
18 common sense told me that what was going on is  
19 either he had concluded, or someone had told him,  
20 that you didn't -- you've already asked Comey to  
21 stay, and you didn't get anything for it, and that  
22 the dinner was an effort to build a relationship --

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1 in fact, he asked specifically -- of loyalty in the  
2 context of asking me to stay.

3 And, as I said, what was odd about that is  
4 we'd already talked twice about it by that point.  
5 And he'd said, "I very much hope you'll stay. I  
6 hope you'll stay."

7 In fact, I just remembered, sitting here, a  
8 third one. When -- you've seen the picture of me  
9 walking across the Blue Room. And what the  
10 President whispered in my ear was, "I really look  
11 forward to working with you." So, after those  
12 encounters --

13 SENATOR WARNER: And that was just a few  
14 days before you were fired?

15 MR. COMEY: Yeah, that was on the 20 -- the  
16 Sunday after the inauguration. The next Friday, I  
17 have dinner, and the President begins by wanting to  
18 talk about my job. And so I'm sitting there  
19 thinking, wait a minute, three times we've  
20 already -- you've already asked me to stay, or  
21 talked about me staying. And my common sense --  
22 again, I could be wrong, but my common sense told me



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1 what's going on here is that he's looking to get  
2 something in exchange for granting my request to  
3 stay in the job.

4 SENATOR WARNER: And, again, we all  
5 understand -- I was a governor, I had people work  
6 for me. But this constant request -- and, again,  
7 quoting you, him saying that he -- despite you  
8 explaining your independence, he kept coming back to  
9 "I need loyalty." "I expect loyalty."

10 Had you ever had any of those kind of  
11 requests before from anyone else you'd worked for in  
12 the government?

13 MR. COMEY: No. And what made me uneasy was  
14 I'm, at that point, the director of the FBI. The  
15 reason that Congress created a ten-year term is so  
16 that the director is not feeling as if they're  
17 serving at -- with political loyalty owed to any  
18 particular person.

19 The -- the statue of Justice has a blindfold  
20 on because you're not supposed to be peeking out to  
21 see whether your patron is pleased or not with what  
22 you're doing. It should be about the facts and the

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1 law. That's why I was -- that's why I became FBI  
2 director, to be in that kind of position. So that's  
3 why I was so uneasy.

4 SENATOR WARNER: Well, let me -- let me move  
5 on. My time's running out.

6 February 14th -- again, it seems a bit  
7 strange. You were in a meeting, and your direct  
8 superior, the attorney general, was in that meeting,  
9 as well. Yet the President asked everyone to leave,  
10 including the attorney general to leave, before he  
11 brought up the matter of General Flynn.

12 What was your impression of that type of  
13 action? Had you ever seen anything like that  
14 before?

15 MR. COMEY: No. My impression was,  
16 something big is about to happen. I need to  
17 remember every single word that is spoken. And,  
18 again, I could be wrong, but I'm 56 years old, I've  
19 been -- seen a few things. My sense was the  
20 attorney general knew he shouldn't be leaving, which  
21 is why he was lingering, And I don't know  
22 Mr. Kushner well, but I think he picked up on the

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1 same thing. And so I knew something was about to  
2 happen that I needed to pay very close attention to.

3 SENATOR WARNER: And I -- I found it very  
4 interesting that in the memo that you wrote after  
5 this February 14th pull-aside, you made clear that  
6 you wrote that memo in a way that was unclassified.

7 If you affirmatively made the decision to  
8 write a memo that was unclassified, was that because  
9 you felt, at some point, the facts of that meeting  
10 would have to come clean and come clear and actually  
11 be able to be cleared in a way that could be shared  
12 with the American people?

13 MR. COMEY: Well, I remember thinking this  
14 is a very disturbing development, really important  
15 to our work. I need to document it and preserve it  
16 in a way -- and -- and this committee gets this, but  
17 sometimes when things are classified, it tangles  
18 them up. It's hard --

19 SENATOR WARNER: Amen.

20 MR. COMEY: -- to share it within an  
21 investigative team. It's -- you have to be very  
22 careful about how you handle it, for good reason.

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1           So my thinking was, if I write it in such a  
2   way that I don't include anything that would trigger  
3   a classification, that'll make it easier for us to  
4   discuss within the FBI and the government and to --  
5   to hold on to it in a way that makes it accessible  
6   to us.

7           SENATOR WARNER: Well, again, it's our hope,  
8   particularly since you're a pretty knowledgeable guy  
9   and you wrote this in a way that was unclassified,  
10   that this committee will get access to that  
11   unclassified document. I think it'll be very  
12   important to our investigation.

13          Let me just ask this in closing: How many  
14   ongoing investigations, at any time, does the FBI  
15   have going on? Going on --

16          MR. COMEY: Oh, tens of thousands.

17          SENATOR WARNER: Tens of thousands.

18          Did the President ever ask about any other  
19   ongoing investigation?

20          MR. COMEY: No.

21          SENATOR WARNER: Did he ever ask about you  
22   trying to interfere on any other investigation?

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1 MR. COMEY: No.

2 SENATOR WARNER: I think, again, this speaks  
3 volumes. This doesn't even get to the questions  
4 around the -- the phone calls about lifting the  
5 cloud. I know other members will get to that, but I  
6 really appreciate your testimony and appreciate your  
7 service to our nation.

8 MR. COMEY: Thank you, Senator Warner.

9 You know, I just -- I'm sitting here, we're  
10 going through my contacts with him. I had one  
11 conversation with the President that was classified  
12 where he asked about our -- an ongoing intelligence  
13 investigation. It was brief and entirely  
14 professional.

15 SENATOR WARNER: But he didn't ask you to  
16 take any specific action on that?

17 MR. COMEY: Oh, no. No.

18 SENATOR WARNER: Unlike what he had done  
19 vis-à-vis Mr. Flynn and the overall Russia  
20 investigation?

21 MR. COMEY: Correct.

22 SENATOR WARNER: Thank you, sir.

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1 CHAIRMAN BURR: Senator Risch.

2 SENATOR JAMES RISCH (R-ID): Thank you very  
3 much.

4 Mr. Comey, thank you for your service.  
5 America needs more like you, and we really  
6 appreciate it.

7 Yesterday, I got, and everybody got, the  
8 seven pages of your direct testimony that's now a  
9 part of the record here. And the first -- I read  
10 it, then I read it again, and all I could think was,  
11 number one, how much I hated the class of legal  
12 writing when I was in law school. And you were the  
13 guy that probably got the A, after -- after reading  
14 this.

15 So I -- I find it clear, I find it concise.  
16 And having been a prosecutor for a number of years  
17 and handling hundred, maybe thousands, of cases, and  
18 read police reports, investigative reports, this is  
19 as good as it gets. And -- and I really appreciate  
20 that, not only -- not only the conciseness and the  
21 clearness of it, but also the fact that you have  
22 things that were written down contemporaneously when

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1 they happened, and you actually put them in quotes,  
2 so we know exactly what happened and we're not  
3 getting some rendition of it that -- that's in your  
4 mind. So --

5 MR. COMEY: Thank you, Senator.

6 SENATOR RISCH: -- so you're -- you're to be  
7 complimented for that.

8 MR. COMEY: I had great parents and great  
9 teachers who beat that into me.

10 SENATOR RISCH: That's obvious, sir.

11 The -- the Chairman walked you through a  
12 number of things that -- that the American people  
13 need to know and want to know. Number one,  
14 obviously, we're -- all know about the active  
15 measures that the Russians have taken. I think a  
16 lot of people were surprised at this. Those of us  
17 that work in the intelligence community didn't -- it  
18 didn't come as a surprise. But now the American  
19 people know this, and it's good they know this,  
20 because this is serious, and it's a problem.

21 I -- I think, secondly, I gather from all  
22 this that you're willing to say now that while you

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1       were director, the President of the United States  
2       was not under investigation; is that a fair  
3       statement?

4               MR. COMEY: That's correct.

5               SENATOR RISCH: All right. So that's a fact  
6       that we can rely at this --

7               MR. COMEY: Yes, sir.

8               SENATOR RISCH: Okay. On -- I remember,  
9       you -- you talked with us shortly after February  
10      14th, when the New York Times wrote an article that  
11      suggested that the Trump campaign was colluding with  
12      the Russians. You remember reading that article  
13      when it first came out?

14              MR. COMEY: I do. It was about allegedly  
15      extensive electronic surveillance --

16              SENATOR RISCH: Correct.

17              MR. COMEY: -- communications. Yes, I do.

18              SENATOR RISCH: And -- and that upset you to  
19      the point where you actually went out and surveyed  
20      the intelligence community to see whether -- whether  
21      you were missing something in that; is that correct?

22              MR. COMEY: That's correct. I want to be



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1 careful in open setting, but --

2 SENATOR RISCH: I -- I'm -- I'm not going to  
3 go any further than that.

4 MR. COMEY: Okay.

5 SENATOR RISCH: So thank you.

6 In addition to that, after that, you sought  
7 out both Republican and Democrat senators to tell  
8 them that, "Hey, I don't know where this is coming  
9 from, but this is not the -- this is not factual."  
10 Do you recall that?

11 MR. COMEY: Yes.

12 SENATOR RISCH: Okay. So -- so, again, so  
13 the American people can understand this, that report  
14 by the New York Times was not true; is that a fair  
15 statement?

16 MR. COMEY: In -- in the main, it was not  
17 true. And, again, all of you know this, maybe the  
18 American people don't. The challenge, and I'm not  
19 picking on reporters, about writing stories about  
20 classified information is, is that people talking  
21 about it often don't really know what's going on,  
22 and those of us who actually know what's going on

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1 are not talking about it. And we don't call the  
2 press to say, "Hey, you got that thing wrong about  
3 this sensitive topic." We just have to leave it  
4 there.

5 I mentioned to the Chairman the nonsense  
6 around what influenced me to make the July 5th  
7 statement. Nonsense. But I can't go explaining how  
8 it's nonsense.

9 SENATOR RISCH: Thank you.

10 All right. So -- so those three things we  
11 now know regarding the active measures, whether the  
12 President's under investigation and the collusion  
13 between the -- the Russian -- the Trump campaign and  
14 the Russians.

15 I -- I want to drill right down, as my time  
16 is limited, to the most recent dust-up regarding  
17 allegations that the President of the United States  
18 obstructed justice. And, boy, you nailed this down  
19 on page 5, paragraph 3. You put this in quotes,  
20 words matter. You wrote down the words so we can  
21 all have the words in front of us now. There's 28  
22 words there that are in quotes, and it says, quote,

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1 I hope -- this is the President speaking -- I hope  
2 you can see your way clear to letting this go, to  
3 letting Flynn go. He is a good guy. I hope you can  
4 let this go.

5 Now, those are his exact words; is that  
6 correct?

7 MR. COMEY: Correct.

8 SENATOR RISCH: And you wrote them here, and  
9 you put them in quotes?

10 MR. COMEY: Correct.

11 SENATOR RISCH: Okay. Thank you for that.  
12 He did not direct you to let it go?

13 MR. COMEY: Not in his words, no.

14 SENATOR RISCH: He did not order you to let  
15 it go.

16 MR. COMEY: Again, those words are not an  
17 order.

18 SENATOR RISCH: No.

19 He said, "I hope." Now, like me, you  
20 probably did hundreds of cases, maybe thousands of  
21 cases, charging people with criminal offenses. And,  
22 of course, you have knowledge of the thousands of

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1 cases out there that -- where people have been  
2 charged.

3 Do you know of any case where a person has  
4 been charged for obstruction of justice or, for that  
5 matter, any other criminal offense, where this --  
6 they said, or thought, they hoped for an outcome?

7 MR. COMEY: I don't know well enough to  
8 answer. And the reason I keep saying his words is,  
9 I took it as a direction.

10 SENATOR RISCH: Right.

11 MR. COMEY: I mean, this is the President of  
12 the United States, with me alone, saying, "I hope"  
13 this. I took it as, this is what he wants me to do.

14 SENATOR RISCH: You didn't --

15 MR. COMEY: Now I -- I didn't obey that, but  
16 that's the way I took it.

17 SENATOR RISCH: You -- you may have taken it  
18 as a direction, but that's not what he said.

19 MR. COMEY: Correct. I --

20 SENATOR RISCH: He said --

21 MR. COMEY: That's why --

22 SENATOR RISCH: He said -- he said, "I

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1 hope."

2 MR. COMEY: Those were his exact words,  
3 correct.

4 SENATOR RISCH: Okay. You don't know of  
5 anyone that's ever been charged for hoping  
6 something; is that a fair statement?

7 MR. COMEY: I don't, as I sit here.

8 SENATOR RISCH: Yeah. Thank you.

9 Thank you, Mr. Chairman.

10 CHAIRMAN BURR: Senator Feinstein.

11 SENATOR DIANNE FEINSTEIN (D-CA): Thanks  
12 very much, Mr. Chairman.

13 Mr. Comey, I just want you to know that I  
14 have great respect for you. Senator Cornyn and I  
15 sit on the Judiciary Committee, so we have occasion  
16 to have you before us. And I know that you're a man  
17 of strength and integrity, and I really regret the  
18 situation that we all find ourselves in. I just  
19 want to say that.

20 Let me begin with one overarching question.  
21 Why do you believe you were fired?

22 MR. COMEY: Guess I don't know for sure. I

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1 believe the -- I take the President at his word that  
2 I was fired because of the Russia investigation.  
3 Something about the way I was conducting it, the  
4 President felt created pressure on him that he  
5 wanted to relieve.

6 Again, I didn't know that at the time, but I  
7 watched his interview, I've read the press accounts  
8 of his conversations. So I take him at his word  
9 there.

10 Now, look, I -- I could be wrong. Maybe  
11 he's saying something that's not true, but I take  
12 him at his word, at least based on what I know now.

13 SENATOR FEINSTEIN: Talk for a moment about  
14 his request that you pledge loyalty, and your  
15 response to that and what impact you believe that  
16 had?

17 MR. COMEY: I -- I don't know for sure,  
18 because I don't know the President well enough to  
19 read him well. I think it was -- because our  
20 relationship didn't get off to a great start, given  
21 the conversation I had to have on January 6th, this  
22 was not -- this didn't improve the relationship,

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1 because it was very, very awkward. He was asking  
2 for something, and I was refusing to give it. But,  
3 again, I don't know him well enough to know how he  
4 reacted to that, exactly.

5 SENATOR FEINSTEIN: Do you believe the  
6 Russia investigation played a role?

7 MR. COMEY: In why I was fired?

8 SENATOR FEINSTEIN: Yes.

9 MR. COMEY: Yes, because I've seen the  
10 President say so.

11 SENATOR FEINSTEIN: Okay. Let's -- let's go  
12 to the Flynn issue.

13 Senator Risch outlined a -- "I hope you  
14 could see your way to letting Flynn go. He's a good  
15 guy. I hope you can let this go."

16 But you also said in your written remarks,  
17 and I quote, that you had understood the President  
18 to be requesting that we drop any investigation of  
19 Flynn in connection with false statements about his  
20 conversations with the Russian ambassador in  
21 December, end quote.

22 Please go into that with more detail.

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1           MR. COMEY: Well, the -- the context and the  
2     President's words are what led me to that  
3     conclusion. As I said in my statement, I could be  
4     wrong, but Flynn had been forced to resign the day  
5     before, and -- and the controversy around General  
6     Flynn at that point in time was centered on whether  
7     he had lied to the Vice President about the nature  
8     of his conversations with the Russians, whether he  
9     had been candid with others in the course of that.

10           And so that happens on the day before. On  
11    the 14th, the President makes specific reference to  
12    that. And so that's why I understood him to be  
13    saying that what he wanted me to do was drop any  
14    investigation connected to Flynn's account of his  
15    conversations with the Russians.

16           SENATOR FEINSTEIN: Now, here's the  
17    question: You're big. You're strong. I know the  
18    Oval Office, and I know what happens to people when  
19    they walk in. There is a certain amount of  
20    intimidation. But why didn't you stop and say,  
21    "Mr. President, this is wrong. I cannot discuss  
22    this with you"?



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1 MR. COMEY: It's a great question. Maybe if  
2 I were stronger, I would have. I was so stunned by  
3 the conversation that I just --

4 SENATOR FEINSTEIN: (Inaudible).

5 MR. COMEY: -- took it in. And the only  
6 thing I could think to say, because I was playing in  
7 my mind, because I could remember every word he  
8 said -- I was playing in my mind, what should my  
9 response be? And that's why I very carefully chose  
10 the words.

11 And, look, I -- I've seen the tweet about  
12 tapes, "Lordy, I hope there are tapes." I -- I  
13 remember saying, "I agree he's a good guy," as a way  
14 of saying, "I'm not agreeing with what you just  
15 asked me to do."

16 Again, maybe other people would be stronger  
17 in that circumstance, but that -- that was -- that's  
18 how I conducted myself. I -- I hope I'll never have  
19 another opportunity. Maybe if I did it again, I  
20 would do it better.

21 SENATOR FEINSTEIN: You described two phone  
22 calls that you received from President Trump, one on

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1 March 30 and one on April 11, where he, quote,  
2 described the Russia investigation as a cloud that  
3 was impairing his ability, end quote, as President,  
4 and asked you, quote, to lift the cloud, end quote.

5 What -- how did you interpret that? And  
6 what did you believe he wanted you to do?

7 MR. COMEY: I interpreted that as he was  
8 frustrated that the Russia investigation was taking  
9 up so much time and energy, I -- I think he meant,  
10 of the executive branch, but in the -- in the public  
11 square in general, and it was making it difficult  
12 for him to focus on other priorities of his. But  
13 what he asked me was actually narrower than that.  
14 So I think what he meant by the "cloud," and, again,  
15 I could be wrong, but what I think he meant by the  
16 "cloud" was the entire investigation is -- is taking  
17 up oxygen and making it hard for me to focus on the  
18 things I want to focus on.

19 The "ask" was to get it out that I, the  
20 President, am not personally under investigation.

21 SENATOR FEINSTEIN: After April 11th, did he  
22 ask you more, ever, about the Russia investigation?

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1 Did he ask you any questions?

2 MR. COMEY: We never spoke again after April  
3 11th.

4 SENATOR FEINSTEIN: You told the President,  
5 "I -- I would see what we could do." What did you  
6 mean?

7 MR. COMEY: It was kind of a slightly  
8 cowardly way of trying to avoid telling him, we're  
9 not going to do that, that I would see what we could  
10 do. It was a way of kind of getting off the phone,  
11 frankly. And then I turned and handed it to the  
12 acting deputy attorney general, Mr. Boente.

13 SENATOR FEINSTEIN: So I wanted to go into  
14 that. Who did you talk with about that, lifting the  
15 cloud, stopping the investigation, back at the FBI,  
16 and what was their response?

17 MR. COMEY: Well, the FBI, during one of the  
18 two conversations -- I'm not remembering exactly, I  
19 think the first, my chief of staff was actually  
20 sitting in front of me and heard my end of the  
21 conversation, because the President's call was a  
22 surprise.

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1           And I discussed the lifting the cloud and  
2     the request with the senior leadership team, who  
3     in -- in -- typically, and I think in all these  
4     circumstances, was the deputy director, my chief of  
5     staff, the general counsel, the deputy director's  
6     chief counsel, and I think in a number of  
7     circumstances the number three in the FBI, and a few  
8     of the conversations included the head of the  
9     national security branch, so that group of us that  
10    lead the FBI when it comes to national security.

11           SENATOR FEINSTEIN: Okay. You have the  
12    President of the United States asking you to stop an  
13    investigation that's an important investigation.  
14    What was the response of your colleagues?

15           MR. COMEY: I think they were as shocked and  
16    troubled by it as I was. Some said things that led  
17    me to believe that. I don't remember exactly, but  
18    the reaction was similar to mine. They're all  
19    experienced people who had never experienced such a  
20    thing. So they were very concerned.

21           And then the conversation turned to about,  
22    so what should we do with this information? And

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1 that was a struggle for us, because we are the  
2 leaders of the FBI. So it's been reported to us, in  
3 that I heard it and now I've shared it with the  
4 leaders of the FBI -- our -- our conversation was,  
5 should we share this with any senior officials at  
6 the Justice Department.

7 Our -- our absolute primary concern was, we  
8 can't infect the investigative team. We don't want  
9 the agents and analysts working on this to know the  
10 President of the United States has -- has asked --  
11 and when it comes from the President, I took it as a  
12 direction -- to get rid of this investigation,  
13 because we're not going to follow that -- that  
14 request.

15 And so we decided we gotta keep it away from  
16 our troops, but is there anybody else we ought to  
17 tell at the Justice Department. And as I laid out  
18 in my -- in my statement, we considered whether to  
19 tell the attorney general, decided that didn't make  
20 sense because we believed, rightly, that he was  
21 shortly going to recuse.

22 There were no other Senate-confirmed leaders

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1 in the Justice Department at that point. The deputy  
2 attorney general was Mr. Boente, who was acting and  
3 going to be shortly in that seat. And we decided  
4 the best move would be to hold it, keep it in a box,  
5 document it, as we'd already done, and then this  
6 investigation's going to go on. Figure out what to  
7 do with it down the road. Is there a way to  
8 corroborate this?

9 Our view at the time was, look, it's your  
10 word against the President's. There's no way to  
11 corroborate this. That -- my view of that changed  
12 when the prospect of tapes was raised, but that's  
13 how we thought about it then.

14 SENATOR FEINSTEIN: Thank you.

15 Thank you, Mr. Chairman.

16 CHAIRMAN BURR: Senator Rubio.

17 SENATOR MARCO RUBIO (R-FL): Thank you.

18 Director Comey, the meeting in the Oval  
19 Office where he made the request about Mike Flynn,  
20 was that the only time he asked you to hopefully let  
21 it go?

22 MR. COMEY: Yes.

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1           SENATOR RUBIO: And in that meeting, as you  
2 understood it, that was -- he was asking you not  
3 about the general Russia investigation, he was  
4 asking very specifically about the jeopardy that  
5 Flynn was in himself?

6           MR. COMEY: That's how I understood it, yes,  
7 sir.

8           SENATOR RUBIO: And as you perceived it,  
9 while it was a request that he hoped you did away  
10 with it, you perceived it as an order, given his  
11 position, the setting, and the like, and some of the  
12 circumstances?

13          MR. COMEY: Yes.

14          SENATOR RUBIO: At the time, did you say  
15 anything to the President about, that is not an  
16 appropriate request, or did you tell the White House  
17 counsel, "That is not an appropriate request,  
18 someone needs to go tell the President that he can't  
19 do these things"?

20          MR. COMEY: I didn't, no.

21          SENATOR RUBIO: Okay. Why?

22          MR. COMEY: I don't know. I think the -- as

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1 I said earlier, I think the circumstances were such  
2 that it was -- I was a bit stunned, and didn't have  
3 the presence of mind.

4 And I don't know -- you know, I don't want  
5 to make you -- sound like I'm Captain Courageous. I  
6 don't know whether, even if I had the presence of  
7 mind, I would have said to the President, "Sir,  
8 that's wrong." I don't know whether I would have.

9 SENATOR RUBIO: Okay.

10 MR. COMEY: But in the moment, it -- it  
11 didn't -- it didn't come to my mind. What came to  
12 my mind is, be careful what you say. And so I said,  
13 "I agree, Flynn is a good guy."

14 SENATOR RUBIO: So on the cloud, we keep  
15 talking about this cloud, you perceived the cloud to  
16 be the Russian investigation in general, correct?

17 MR. COMEY: Yes, sir.

18 SENATOR RUBIO: But his specific ask was  
19 that you would tell the American people what you had  
20 already told him, what you had already told the  
21 leaders of Congress, both Democrats and Republicans,  
22 that he was not personally under investigation?



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1 MR. COMEY: Yes, sir, that's how I --

2 SENATOR RUBIO: In fact, he was asking you  
3 to do what you have done here today?

4 MR. COMEY: Correct. Yes, sir.

5 SENATOR RUBIO: Okay. And, again, at that  
6 setting, did you say to the President that it would  
7 be inappropriate for you to do so, and then talk to  
8 the White House counsel or anybody so hopefully they  
9 would talk to him and tell him that he couldn't do  
10 this?

11 MR. COMEY: First time, I said, "I'll see  
12 what we can do." Second time, I explained how it  
13 should work, that the White House counsel should  
14 contact the deputy attorney general.

15 SENATOR RUBIO: You told him that?

16 MR. COMEY: And the President said, "Okay,  
17 then I think that's what I'll do."

18 SENATOR RUBIO: And just to be clear, for  
19 you to make a public statement that he was not under  
20 investigation would not have been illegal, but you  
21 felt it made no sense because it could potentially  
22 create a duty to correct if circumstances changed?

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1 MR. COMEY: Yes, sir. We wrestled with it  
2 before my testimony where I confirmed that there was  
3 an investigation, and there were two primary  
4 concerns. One was it creates a duty to correct,  
5 which I've lived before, and you want to be very  
6 careful about doing that. And, second, it's a  
7 slippery slope, because if we say the President and  
8 the Vice President aren't under investigation,  
9 what's the principled basis for -- for stopping.

10 SENATOR RUBIO: Okay.

11 MR. COMEY: And so the leadership at -- at  
12 Justice, Acting Attorney General Boente, said,  
13 "You're not going to do that."

14 SENATOR RUBIO: Now, on March 30th, during  
15 the phone call about General Flynn, you said he  
16 abruptly shifted and brought up something that you  
17 call, quote-unquote, the McCabe thing.  
18 Specifically, the McCabe thing, as you understood  
19 it, was that McCabe's wife had received campaign  
20 money from what I assume means Terry McAuliffe?

21 MR. COMEY: Yes, sir. That's what --

22 SENATOR RUBIO: Who was very close to the

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1      Clintons.  And -- and so why did you -- had the  
2     President at any point in time expressed to you  
3     concern, opposition, potential opposition to McCabe,  
4     "I don't like this guy because he got money from  
5     someone that's close to Clinton"?

6             MR. COMEY:  He had asked me during previous  
7     conversations about Andy McCabe and said, in  
8     essence, "How's he going to be with me as President?  
9     I was pretty rough on 'em on the campaign trail."  
10    And --

11            SENATOR RUBIO:  He was rough on McCabe?

12            MR. COMEY:  He was rough -- by his own  
13     account, he said he was rough on McCabe and  
14     Mrs. McCabe on the campaign trail, "How's he going  
15     to be?"  And I assured the President, "Andy is a  
16     total pro.  No issue at all.  You got to know the  
17     people of the FBI, they are not" --

18            SENATOR RUBIO:  So -- so when the President  
19     turns to you and says, "Remember, I never brought up  
20     the McCabe thing because you said he was a good  
21     guy," did you perceive that to be a statement that  
22     "I took care of you," "I -- I didn't do something

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1 because you told me he was a good guy, so now, you  
2 know, I'm asking you, potentially, for something in  
3 return"? Is that how you perceived it?

4 MR. COMEY: I wasn't sure what to make of  
5 it, honestly. That's possible, but it -- it was so  
6 out of context that I didn't have a clear view of  
7 what it was.

8 SENATOR RUBIO: Now, on a number of  
9 occasions here, you bring up -- let's talk now about  
10 the general Russia investigation, okay? On page 6  
11 of your testimony, you say -- the first thing you  
12 say is: He asked what we could do to,  
13 quote-unquote, lift the cloud, the general Russia  
14 investigation.

15 And you responded that we were investigating  
16 the matter as quickly as we could and that there  
17 would be great benefit if we didn't find anything,  
18 to having done the work well. And he agreed. He  
19 reemphasized the problems it was causing him, but he  
20 agreed.

21 So, in essence, the President agreed with  
22 your statement that it would be great if we could

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1 have an investigation, all the facts came out, and  
2 we found nothing. So he agreed that that would be  
3 ideal, but this cloud is still messing up my ability  
4 to do the rest of my agenda.

5 Is that an accurate assessment of --

6 MR. COMEY: Yes, sir. He actually went  
7 farther than that. He -- he said, "And if some of  
8 my satellites did something wrong, it'd be good to  
9 find that out."

10 SENATOR RUBIO: Well, that's the second  
11 part, and that is, the satellites. He said, "If one  
12 of my satellites" -- I imagine by that he meant some  
13 of the other people surrounding his campaign -- "did  
14 something wrong, it would be great to know that, as  
15 well."

16 MR. COMEY: Yes, sir. That's what he said.

17 SENATOR RUBIO: So are those the other --  
18 are those the only two instances in which that sort  
19 of back-and-forth happened, where the President was  
20 basically saying, and I'm paraphrasing here, "It's  
21 okay, do the Russia investigation. I hope it all  
22 comes out. I have nothing to do with anything

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1 Russia. It'd be great if it all came out, if people  
2 around me were doing things that were wrong."

3 MR. COMEY: Yes. As I -- I recorded it  
4 accurately there. That was the sentiment he was  
5 expressing. Yes, sir.

6 SENATOR RUBIO: So what it basically comes  
7 down to is the President has asked three things of  
8 you: He asked for your loyalty, and you said you  
9 would be loyally honest?

10 MR. COMEY: Honestly loyal.

11 SENATOR RUBIO: Honestly loyal. The --  
12 the -- he asked you, on one occasion, to let the  
13 Mike Flynn thing go because he was a good guy -- by  
14 the way, you're aware that he said the exact same  
15 thing in the press the next day, "He's a good guy,"  
16 "He's been treated unfairly," et cetera, et cetera.  
17 So I imagine your FBI agents read that.

18 MR. COMEY: I'm sure they did.

19 SENATOR RUBIO: Your -- the President's  
20 wishes were known to them, certainly, by the next  
21 day, when he had a press conference with the prime  
22 minister.

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1           Going back, the three requests were: Number  
2           one, be loyal; number two, let the Mike Flynn thing  
3           go, he's a good guy, he's been treated unfairly;  
4           and, number three, can you please tell the American  
5           people what these leaders in Congress already know,  
6           what you already know, what you've told me three  
7           times, that I'm not under -- personally under  
8           investigation.

9           MR. COMEY: Those are the three things he  
10          asked. Yes, sir.

11          SENATOR RUBIO: You know, this investigation  
12          is full of leaks, left and right. I mean, we've  
13          learned more from the newspapers sometimes than we  
14          do from our open hearings, for sure.

15          You ever wonder why, of all the things in  
16          this investigation, the only thing that's never been  
17          leaked is the fact that the President was not  
18          personally under investigation, despite the fact  
19          that both Democrats and Republicans and the  
20          leadership of Congress knew that and have known that  
21          for weeks?

22          MR. COMEY: I don't know. I find matters

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1 that are briefed to the Gang of Eight are pretty  
2 tightly held, in my experience.

3 SENATOR RUBIO: Finally, who are those  
4 senior leaders at the FBI that you shared these  
5 conversations with?

6 MR. COMEY: As I said in response to Senator  
7 Feinstein's question, deputy director, my chief of  
8 staff, general counsel, the deputy director's chief  
9 counsel, and then, more often than not, the number  
10 three person at the FBI, who is the associate deputy  
11 director, and then, quite often, the head of the  
12 national security branch.

13 CHAIRMAN BURR: Senator Wyden.

14 SENATOR RONALD LEE WYDEN (D-OR): Thank you,  
15 Mr. Chairman.

16 Mr. Comey, welcome. You and I have had  
17 significant policy differences over the years,  
18 particularly protecting Americans' access to secure  
19 encryption. But I believe the timing of your firing  
20 stinks. And yesterday you put on the record  
21 testimony that demonstrates why the odor of  
22 presidential abuse of power is so strong.



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1           Now to my questions. In talking to Senator  
2 Warner about this dinner that you had with the  
3 President, I believe, January 27th, all in one  
4 dinner, the President raised your job prospects, he  
5 asked for your loyalty, and denied allegations  
6 against him. All took place over one supper.

7           Now, you told Senator Warner that the  
8 President was looking to, quote, get something.  
9 Looking back, did that dinner suggest that your job  
10 might be contingent on how you handled the  
11 investigation?

12           MR. COMEY: I don't know that I'd go that  
13 far. I -- I got the sense my job would be  
14 contingent upon how he felt I -- excuse me -- how he  
15 felt I conducted myself and whether I demonstrated  
16 loyalty. But I don't know whether I'd go so far as  
17 to connect it to the investigation --

18           SENATOR WYDEN: You said the President was  
19 trying to create some sort of patronage  
20 relationship. In a patronage relationship, isn't  
21 the underling expected to behave in a manner  
22 consistent with the wishes of the boss?

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1 MR. COMEY: Yes.

2 SENATOR WYDEN: Okay.

3 MR. COMEY: Or at least consider how what  
4 you're doing will affect the boss, as a significant  
5 consideration.

6 SENATOR WYDEN: Let me turn to the Attorney  
7 General. In your statement, you said that you and  
8 the FBI leadership team decided not to discuss the  
9 President's actions with Attorney General Sessions,  
10 even though he had not recused himself.

11 What was it about the Attorney General's own  
12 interactions with the Russians, or his behavior with  
13 regard to the investigation, that would have led the  
14 entire leadership of the FBI to make this decision?

15 MR. COMEY: Our judgment, as I recall, was  
16 that he was very close to and inevitably going to  
17 recuse himself for a variety of reasons. We also  
18 were aware of facts that I can't discuss in an open  
19 setting that would make his continued engagement in  
20 a Russia-related investigation problematic, and so  
21 we were -- we were convinced -- and, in fact, I  
22 think we had already heard that the career people

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1     were recommending that he recuse himself, that he  
2     was not going to be in contact with Russia-related  
3     matters much longer, and that turned out to be the  
4     case.

5             SENATOR WYDEN: How would you characterize  
6     Attorney General Sessions' adherence to his recusal,  
7     in particular with regard to his involvement in your  
8     firing, which the President has acknowledged was  
9     because of the Russian investigation?

10            MR. COMEY: That's a question I can't  
11     answer. I think it's a reasonable question. If --  
12     if, as the President said, I was fired because of  
13     the Russia investigation, why was the attorney  
14     general involved in that chain? I don't know, and  
15     so I don't have an answer for the question.

16            SENATOR WYDEN: Your testimony was that the  
17     President's request about Flynn could infect the  
18     investigation. Had the President got what he wanted  
19     and what he asked of you, what would have been the  
20     effect on the investigation?

21            MR. COMEY: Well, we would have closed any  
22     investigation of General Flynn in connection with

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1 his statements and encounter -- statements about and  
2 encounters with Russians in the late part of  
3 December.

4 SENATOR WYDEN: Well --

5 MR. COMEY: So we -- we would have dropped  
6 an open criminal investigation.

7 SENATOR WYDEN: So, in effect, when you talk  
8 about infecting the enterprise, you would have  
9 dropped something major that would have spoken to  
10 the overall ability of the American people to get  
11 the facts?

12 MR. COMEY: Correct. And -- and as good as  
13 our people are, our judgment was we don't want them  
14 hearing that the President of the United States  
15 wants this to go away, because it might have an  
16 effect of their ability to be fair and impartial and  
17 aggressive.

18 SENATOR WYDEN: Now, the Acting Attorney  
19 General Yates found out that Michael Flynn could be  
20 blackmailed by the Russians, and she went  
21 immediately to warn the White House.

22 Flynn is gone, but other individuals with

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1 contacts with the Russians are still in extremely  
2 important positions of power. Should the American  
3 people have the same sense of urgency now with  
4 respect to them?

5 MR. COMEY: I think all I can say, Senator,  
6 is it's a -- the special counsel's investigation is  
7 very important. Understanding what efforts there  
8 were or are by the Russian government to influence  
9 our government is a critical part of the FBI's  
10 mission, so -- and you've got the right person in  
11 Bob Mueller to lead it. So it's a very important  
12 piece of work.

13 SENATOR WYDEN: Vice President Pence was the  
14 head of the transition. To your knowledge, was he  
15 aware of the concerns about Michael Flynn prior to  
16 or during General Flynn's tenure as national  
17 security adviser?

18 MR. COMEY: I don't -- you're asking,  
19 including up to the time when Flynn was --

20 SENATOR WYDEN: (Inaudible).

21 MR. COMEY: -- forced to resign? My  
22 understanding is that he was, and I'm trying to

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1 remember where I get that understanding from. I  
2 think from Acting Attorney General Yates.

3 SENATOR WYDEN: So former Acting Attorney  
4 General Yates testified that concerns about General  
5 Flynn were discussed with the intelligence  
6 community. Would that have included anyone at the  
7 CIA or Dan Coats' office, the DNI?

8 MR. COMEY: I would assume yes.

9 SENATOR WYDEN: Michael Flynn resigned four  
10 days after Attorney General Sessions was sworn in.  
11 Do you know if the attorney general was aware of the  
12 concerns about Michael Flynn during that period?

13 MR. COMEY: I don't, as I sit here, I  
14 don't -- I don't recall that he was. I could be  
15 wrong, but I don't remember that he was.

16 SENATOR WYDEN: And, finally, let's see if  
17 you can give us some sense of who recommended your  
18 firing. Besides the letters from the attorney  
19 general, the deputy attorney general, do you have  
20 any information on who may have recommended or have  
21 been involved in your firing?

22 MR. COMEY: I don't. I don't.

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1           SENATOR WYDEN:   Okay.

2           Thank you, Mr. Chairman.

3           CHAIRMAN BURR:   Senator Collins.

4           SENATOR SUSAN COLLINS (R-ME):   Thank you,  
5           Mr. Chairman.

6           Mr. Comey, let me begin by thanking you for  
7           your voluntary compliance with our request to appear  
8           before this committee and assist us in this very  
9           important investigation.

10          I want, first, to ask you about your  
11          conversations with the President, the three  
12          conversations in which you told him that he was not  
13          under investigation.

14          The first was during your January 6th  
15          meeting, according to your testimony, in which it  
16          appears that you actually volunteered that  
17          assurance; is that correct?

18          MR. COMEY:   That's correct.

19          SENATOR COLLINS:   Did you limit that  
20          statement to counterintelligence investigations, or  
21          were you talking about any kind of FBI  
22          investigation?

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1           MR. COMEY: I didn't -- I didn't use the  
2 term "counterintelligence." I was speaking to him  
3 and briefing him about some salacious and unverified  
4 material. It was in the context of that that he had  
5 a strong and defensive reaction about that not being  
6 true. And my reading of it was, it was important  
7 for me to assure him we were not personally  
8 investigating him. And so the context then was  
9 actually narrower, focused on what I had just talked  
10 to him about.

11           But it was very important because it was,  
12 first, true. And, second, I was very much about  
13 being in kind of a -- kind of a J. Edgar Hoover-type  
14 situation. I didn't want him thinking that I was  
15 briefing him on this to sort of hang it over him in  
16 some way. I was briefing him on it because we  
17 were -- had been told by the media it was about to  
18 launch. We didn't want to be keeping that from him.  
19 And if there was some -- he needed to know this was  
20 being said. But I was very keen not to leave him  
21 with an impression that the bureau was trying to do  
22 something to him. And so that's the context in



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1 which I said, "Sir, we're not personally  
2 investigating you."

3 SENATOR COLLINS: And then, on -- and that's  
4 why you volunteered the information --

5 MR. COMEY: Yes, ma'am.

6 SENATOR COLLINS: -- correct?

7 Then on the January 27th dinner, you show --  
8 you told the President that he should be careful  
9 about asking you to investigate, because, quote, You  
10 might create a narrative that we are investigating  
11 him personally, which we weren't.

12 Again, were you limiting that statement to  
13 counterintelligence investigations, or more broadly,  
14 such as a criminal investigation?

15 MR. COMEY: The context was very similar. I  
16 didn't -- I didn't modify the word "investigation."  
17 It was, again, he was reacting strongly again to  
18 that unverified material, saying, "I'm tempted to  
19 order you to investigate it." And that -- in the  
20 context of that, I said, "Sir, you want to be  
21 careful about that, because it might create a  
22 narrative we're investigating you personally."

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1           SENATOR COLLINS: And then there was the  
2     March 30th phone call in -- with the President, in  
3     which you reminded him that congressional leaders  
4     have been briefed that we were not personally -- the  
5     FBI was not personally investigating President  
6     Trump.

7           And, again, was that statement to  
8     congressional leaders and to the President limited  
9     to counterintelligence investigations, or was it a  
10    broader statement?

11          MR. COMEY: I --

12          SENATOR COLLINS: I'm trying to understand  
13    whether there was any kind of investigation of the  
14    President underway.

15          MR. COMEY: No. I'm sorry, and -- and if I  
16    misunderstood, I apologize. We briefed the  
17    congressional leadership about what Americans we had  
18    opened counterintelligence investigation cases on,  
19    and we specifically said the President is not one of  
20    those Americans, but that there was no other  
21    investigation of the President that we were not  
22    mentioning at that time. What -- the context was

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1 counterintelligence, but I wasn't trying to hide  
2 some criminal investigation of the president.

3 SENATOR COLLINS: And was the President  
4 under investigation at the time of your dismissal on  
5 May 9th?

6 MR. COMEY: No.

7 SENATOR COLLINS: I'd like to now turn to  
8 the conversations with the President about Michael  
9 Flynn, which have been discussed at great length.  
10 And, first, let me make very clear that the  
11 President never should have cleared the room, and he  
12 never should have asked you, as you reported, to let  
13 it go, to let the investigation go.

14 But I remain puzzled by your response. Your  
15 response was, "I agree that Michael Flynn is a good  
16 guy." You could have said, "Mr. President, this  
17 meeting is inappropriate. This response could  
18 compromise the investigation. You should not be  
19 making such a request."

20 It's fundamental to the operation of our  
21 government that the FBI be insulated from this kind  
22 of political pressure. And you've talked a bit

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1 today about that you were stunned by the President  
2 making the request.

3 But my question to you is, later on, upon  
4 reflection, did you go to anyone at the Department  
5 of Justice and ask them to call the White House  
6 counsel's office and explain that the President had  
7 to have a far better understanding and appreciation  
8 of his role vis-à-vis the FBI?

9 MR. COMEY: In general, I did. I spoke to  
10 the attorney general, and I spoke to the new deputy  
11 attorney general, Mr. Rosenstein, when he took  
12 office, and explained my serious concern about the  
13 way in which the President is interacting,  
14 especially with the FBI.

15 And I specifically, as I said my testimony,  
16 asked the -- told the attorney general, "It can't  
17 happen that you get kicked out of the room and the  
18 President talks to me."

19 Look, in the room -- and -- and -- but why  
20 didn't we raise the specific? It was of  
21 investigative interest to us to try and figure out,  
22 so what just happened with the President's request.

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1 So I would not have wanted to alert the White House  
2 that it had happened until we figured out, what are  
3 we going to do with this investigatively.

4 SENATOR COLLINS: Your testimony was that  
5 you went to Attorney General Sessions and said,  
6 "Don't ever leave me alone with him again." Are you  
7 saying that you also told him that he had made a  
8 request that you let it go with regard to part of  
9 the investigation of Michael Flynn?

10 MR. COMEY: No, I specifically did not. I  
11 did not.

12 SENATOR COLLINS: Okay. You mentioned that  
13 from your very first meeting with the President, you  
14 decided to write a memo memorializing the  
15 conversation. What was it about that very first  
16 meeting that made you write a memo when you had not  
17 done that with two previous presidents?

18 MR. COMEY: As I said, a combination of  
19 things. A gut feeling is an important overlay on  
20 it, but the circumstances that I was alone, the  
21 subject matter, and the nature of the person that I  
22 was interacting with and my read of that person.

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1 VOICE (off mike): The nature of that  
2 person.

3 MR. COMEY: Yeah, and -- and, really, just a  
4 gut feel, laying on top of all of that, that this --  
5 it's going to be important, to protect this  
6 organization, that I make records of this.

7 SENATOR COLLINS: And, finally, did you show  
8 copies of your memos to anyone outside of the  
9 Department of Justice?

10 MR. COMEY: Yes.

11 SENATOR COLLINS: And to whom did you show  
12 copies?

13 MR. COMEY: I asked -- the President tweeted  
14 on Friday, after I got fired, that I better hope  
15 there's not tapes. I woke up in the middle of the  
16 night on Monday night, because it didn't dawn on me  
17 originally, that there might be corroboration for  
18 our conversation, there might be a tape. And my  
19 judgment was, I needed to get that out into the  
20 public square. And so I asked a friend of mine to  
21 share the content of the memo with a reporter.  
22 Didn't do it myself, for a variety of reasons, but I

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1 asked him to because I thought that might prompt the  
2 appointment of a special counsel. And so I asked a  
3 close friend of mine to do it.

4 SENATOR COLLINS: And was that Mr. Wittes?

5 MR. COMEY: No, uh-uh. No.

6 SENATOR COLLINS: Who was that?

7 MR. COMEY: A good friend of mine who's a  
8 professor at Columbia Law School.

9 SENATOR COLLINS: Thank you.

10 CHAIRMAN BURR: Senator Heinrich.

11 SENATOR MARTIN HEINRICH (D-NM): Mr. Comey,  
12 prior to January 27th of this year, have you ever  
13 had a one-on-one meeting or -- or a private dinner  
14 with a President of the United States?

15 MR. COMEY: No, I met -- dinner, no. I had  
16 two one-on-ones with President Obama that I laid out  
17 in my testimony, once, to talk about law enforcement  
18 issues, law enforcement and race, which was an  
19 important topic throughout for me and for the  
20 President, and then once, very briefly, for him to  
21 say goodbye.

22 SENATOR HEINRICH: Were those brief

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1 interactions?

2 MR. COMEY: No. The one about law  
3 enforcement and race in policing, we spoke for  
4 probably over an hour, just the two of us.

5 SENATOR HEINRICH: How unusual is it to have  
6 a -- a one-on-one dinner with the President? Did  
7 that strike you as odd?

8 MR. COMEY: Yeah, so much so that I assumed  
9 there would be others, that he couldn't possibly be  
10 having dinner with me alone.

11 SENATOR HEINRICH: If -- do you have an  
12 impression that if you had found -- if you had  
13 behaved differently in that dinner, and I am quite  
14 pleased that you did not, but if you had found a way  
15 to express some sort of expression of loyalty, or  
16 given some suggestion that the Flynn criminal  
17 investigation might be pursued less vigorously, do  
18 you think you would've still been fired?

19 MR. COMEY: I don't know. I -- it's  
20 impossible to say, looking back. I don't know.

21 SENATOR HEINRICH: But you felt like those  
22 two things were -- were directly relevant to your --



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1 the kind of relationship that the President was  
2 seeking to establish with you?

3 MR. COMEY: Sure, yes.

4 SENATOR HEINRICH: The -- the President has  
5 repeatedly talked about the Russian investigation  
6 into the U.S. -- or the Russian -- Russia's  
7 involvement in the U.S. election cycle as a hoax and  
8 as fake news.

9 Can you talk a little bit about what you saw  
10 as FBI director, and, obviously, only the parts that  
11 you can share in this setting, that -- that  
12 demonstrate how serious this action actually was,  
13 and why there was an investigation in the first  
14 place.

15 MR. COMEY: Yes, sir.

16 The -- there should be no fuzz on this  
17 whatsoever. The Russians interfered in our election  
18 during the 2016 cycle. They did it with purpose.  
19 They did it with sophistication. They did it with  
20 overwhelming technical efforts. And it was an  
21 active-measures campaign driven from the top of that  
22 government. There is no fuzz on that.

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1           It is a high-confidence judgment of the  
2   entire intelligence community, and -- and the  
3   members of this committee have -- have seen the  
4   intelligence. It's not a close call. That  
5   happened. That's about as un-fake as you can  
6   possibly get, and it's very, very serious, which is  
7   why it's so refreshing to see a bipartisan focus on  
8   that, because this is about America, not about any  
9   particular party.

10           SENATOR HEINRICH: So that was a hostile act  
11   by the Russian government against this country?

12           MR. COMEY: Yes, sir.

13           SENATOR HEINRICH: Did the President, in any  
14   of those interactions that you've shared with us  
15   today, ask you what you should be doing, or what our  
16   government should be doing, or the intelligence  
17   community, to protect America against Russian  
18   interference in our election system?

19           MR. COMEY: I don't recall a conversation  
20   like that.

21           SENATOR HEINRICH: Never?

22           MR. COMEY: No.

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1           SENATOR HEINRICH: Do you -- do you find it  
2 odd --

3           MR. COMEY: Not with -- not with -- not with  
4 President Trump.

5           SENATOR HEINRICH: Right.

6           MR. COMEY: I attended a fair number of  
7 meetings on that with President Obama.

8           SENATOR HEINRICH: Do you find it odd that  
9 the President seemed unconcerned by Russia's actions  
10 in our election?

11          MR. COMEY: I -- I can't answer that,  
12 because I don't know what other conversations he had  
13 with other advisers or other intelligence community  
14 leaders. So I -- I -- I just don't know, sitting  
15 here.

16          SENATOR HEINRICH: Did you have any  
17 interactions with the President that suggested he  
18 was taking that hostile action seriously?

19          MR. COMEY: I don't remember any  
20 interactions with the President, other than the  
21 initial briefing on January the 6th. I don't  
22 remember -- could be wrong, but I don't remember any

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1 conversations with him at all about that.

2 SENATOR HEINRICH: As you're very aware, it  
3 was only the two of you in the room for that dinner.  
4 You've told us the President asked you to back off  
5 the Flynn investigation. The President told a  
6 reporter --

7 MR. COMEY: Not in that dinner.

8 SENATOR HEINRICH: Fair enough -- told a  
9 reporter he did -- never did that. You've testified  
10 that the President asked for your loyalty in that  
11 dinner. The White House denies that.

12 A lot of this comes down to, who should we  
13 believe? Do you want to say anything as to why we  
14 should believe you?

15 MR. COMEY: Probably -- my mother raised me  
16 not to say things like this about myself, so I'm not  
17 gonna. I think people should look at the whole body  
18 of my testimony --

19 SENATOR HEINRICH: Uh-huh.

20 MR. COMEY: -- because as I used to say to  
21 juries when I talked about a witness, you can't  
22 cherry-pick it. You can't say, "I like these things

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1 he said, but on this, he's a -- he's a dirty, rotten  
2 liar."

3 SENATOR HEINRICH: Right.

4 MR. COMEY: You got to take it all together,  
5 and I've tried to be open and fair and transparent  
6 and accurate. A really significant fact to me is,  
7 so why did he kick everybody out of the Oval Office?

8 Why would you kick the attorney general, the  
9 President, the chief of staff, out, to talk to me,  
10 if it was about something else? And so that --  
11 that, to me, is -- as an investigator, is a very  
12 significant fact.

13 SENATOR HEINRICH: And as we look at -- at  
14 testimony, or as communication from both of you, we  
15 should probably be looking for consistency.

16 MR. COMEY: Well, in looking at any witness,  
17 you look at consistency, track record, demeanor,  
18 record over time, that sort of thing.

19 SENATOR HEINRICH: Thank you.

20 So there are reports that the incoming Trump  
21 Administration, either during the transition and/or  
22 after the inauguration, attempted to set up a sort

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1 of back-door communication channel with the Russian  
2 government, using their infrastructure, their  
3 devices, their facilities.

4 What would be the risks, particularly for a  
5 transition, someone not actually in the office of  
6 the President yet, to setting up unauthorized  
7 channels with a hostile foreign government,  
8 especially if they were to evade our own American  
9 intelligence services?

10 MR. COMEY: I'm not going to comment on  
11 whether that happened in an open setting. But the  
12 risk is -- primary risk is obvious: You spare the  
13 Russians the cost and effort of having to break into  
14 our communications channels by using theirs. And so  
15 you make it a whole lot easier for them to capture  
16 all of your conversations, and then to use those to  
17 the benefit of Russia against the United States.

18 SENATOR HEINRICH: The memos that you wrote,  
19 you wrote -- did you write all nine of them in a way  
20 that was designed to prevent them from needing  
21 classification?

22 MR. COMEY: No. And -- and on a few of the

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1 occasions, I wrote -- I sent e-mails to my chief of  
2 staff or others on some of the brief phone  
3 conversations that I recall. The first one was a  
4 classified briefing. Although it wasn't in a SCIF,  
5 it was in a conference room at Trump Tower, it was a  
6 classified briefing. And so I wrote that on a  
7 classified device. The one I started typing --

8 SENATOR HEINRICH: Gotcha.

9 MR. COMEY: -- in the, car -- that was a  
10 classified laptop that I started working on.

11 SENATOR HEINRICH: Any reason in a  
12 classified environment, in a SCIF, that this  
13 committee would -- it would not be appropriate to  
14 see those communications from -- at least from your  
15 perspective as the author?

16 MR. COMEY: No.

17 SENATOR HEINRICH: Thank you, Mr. Chairman.

18 CHAIRMAN BURR: Senator Blunt.

19 SENATOR ROY BLUNT (R-MO): Thank you,  
20 Mr. Chairman.

21 Mr. Comey, when you were terminated at the  
22 FBI, I said, and still continue to feel, that you

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1 have provided years of great service to the country.  
2 I also said that I'd had significant questions over  
3 the last year about some of the decisions you made.

4 If -- if the President hadn't terminated  
5 your service, would you still be, in your opinion,  
6 the director of the FBI today?

7 MR. COMEY: Yes, sir.

8 SENATOR BLUNT: So you took as a direction  
9 from the President something that you thought was  
10 serious and troublesome, but continued to show up  
11 for work the next day?

12 MR. COMEY: Yes, sir.

13 SENATOR BLUNT: And six weeks later we're  
14 still telling the -- were telling the President, on  
15 March the 30th, that he was not personally the  
16 target of any investigation?

17 MR. COMEY: Correct. On March the 30th, and  
18 I think again on -- I think on April 11th as well, I  
19 told him we're not investigating him personally.  
20 That was true.

21 SENATOR BLUNT: Well, the point to me -- the  
22 concern to me there is that all these things are



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1 going on. You now in retrospect -- or at least you  
2 now to this committee -- that these were -- you had  
3 serious concerns about what the President had, you  
4 believed, directed you to do, and had taken no  
5 action -- hadn't even reported up the chain of  
6 command, assuming you believe there is an "up the  
7 chain of command," that these things had happened.

8 Do you have a sense of that, looking back,  
9 that that was a mistake?

10 MR. COMEY: No. In fact, I think no action  
11 was the most important thing I could do, to make  
12 sure there was no interference with the  
13 investigation.

14 SENATOR BLUNT: And on the -- on the Flynn  
15 issue specifically, I believe you said earlier that  
16 you believed the President was suggesting you drop  
17 any investigation of Flynn's account of his  
18 conversation with the Russian ambassador, which was  
19 essentially misleading the Vice President and  
20 others?

21 MR. COMEY: Correct, and -- and I'm not  
22 going to go into the details, but whether there were

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1 false statements made to government investigators,  
2 as well.

3 SENATOR BLUNT: The -- any suggestion that  
4 the -- that General Flynn had violated the Logan  
5 Act, I always find pretty incredible. The Logan  
6 Act's been on the books for over 200 years.  
7 Nobody's ever been prosecuted for violating the  
8 Logan Act.

9 My sense would be that the discussion, not  
10 the problem, misleading investigators or the Vice  
11 President might have been.

12 MR. COMEY: That's fair. Yes, sir.

13 SENATOR BLUNT: And -- and you're -- had you  
14 previously, on February the 14th, discussed with the  
15 President in the previous meeting anything your  
16 investigators had learned, or their impressions from  
17 talking to Flynn?

18 MR. COMEY: No, sir.

19 SENATOR BLUNT: So he said, "He's a good  
20 guy." You said, "He's a good guy." And that was --  
21 no further action taken on that?

22 MR. COMEY: Well, he said more than that,

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1 but there was no -- the action was, I wrote it up,  
2 briefed our senior team, tried to figure out what to  
3 do with it and just made a decision, we're going to  
4 hold this and then see what we make of it down the  
5 road. Yes, sir.

6 SENATOR BLUNT: Was it your view that not  
7 briefing up meant you really had no responsibility  
8 to report that to the Justice Department in some  
9 way?

10 MR. COMEY: I think at some point, and --  
11 and I don't know what Director Mueller is going to  
12 do with it, but at some point I was sure we were  
13 going to brief it to the team in charge of the case.

14 But our judgment was, in the short term,  
15 doesn't make sense to -- no fuzz on the fact that I  
16 reported it to the attorney general. That's why I  
17 stressed he shouldn't be kicked out of the room.  
18 But didn't make sense to report to him now.

19 SENATOR BLUNT: You know, you said the  
20 attorney general said, "I don't want to be in the  
21 room with him alone again," but you continued to  
22 talk to him on the phone. What is the difference in

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1 being in the room alone with him and talking to him  
2 on the phone alone?

3 MR. COMEY: Yeah, I think that what I  
4 stressed to the attorney general was a little  
5 broader than just the room. I said, "You -- I  
6 report to you. It's very important you be between  
7 me and the White House, between" --

8 SENATOR BLUNT: After that discussion with  
9 the attorney general, did you take phone calls from  
10 the President?

11 MR. COMEY: Yes, sir.

12 SENATOR BLUNT: So why did you just say you  
13 need to talk to -- why didn't you say, "I'm not  
14 taking that call. You need to talk to the attorney  
15 general"?

16 MR. COMEY: Well, I -- I did, on the April  
17 11th call, and I reported the calls -- the March  
18 30th call and the April 11th call -- to my superior,  
19 who was the acting deputy attorney general.

20 SENATOR BLUNT: And I -- I don't want to run  
21 out of time here. Let me make one other point.

22 In reading your testimony, January the 3rd,

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1 January the 27th, and March the 30th -- it appears  
2 to me that on all three of those occasions, you,  
3 unsolicited by the President, made the point to him  
4 that he was not a target of the -- of an  
5 investigation.

6 MR. COMEY: Correct. Yes, sir.

7 SENATOR BLUNT: One, I thought the March  
8 30th very interesting. You said, well, even though  
9 you don't want -- you may not want us -- that was  
10 the 27th, where he said, "Why don't you look into  
11 that dossier thing more?" You said, "Well, you may  
12 not want that, because then we couldn't tell you --  
13 couldn't say with -- we couldn't answer the question  
14 about you being a target of the investigation."

15 But you didn't seem to be answering that  
16 question anyhow. As Senator Rubio pointed out, the  
17 one unanswered, leaked question seems to have been  
18 that, in this whole period of time.

19 But you said something earlier I don't want  
20 to fail to follow up on. You said after you were  
21 dismissed, you gave information to a friend so that  
22 friend could get that information into the public

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1 media.

2 MR. COMEY: Correct.

3 SENATOR BLUNT: What kind of information was  
4 that? Wasn't that -- what kind of information did  
5 you give to a friend?

6 MR. COMEY: That the -- the -- the Flynn  
7 conversation. That the President asked me to let  
8 the -- the Flynn -- I'm forgetting my exact own  
9 words, but the -- the conversation in the Oval  
10 Office.

11 SENATOR BLUNT: So you didn't consider your  
12 memo or your sense of that conversation to be a  
13 government document? You considered it to be  
14 somehow your own personal document that you could  
15 share with the media as you wanted to?

16 MR. COMEY: Correct. I --

17 SENATOR BLUNT: Through a friend?

18 MR. COMEY: I understood this to be my  
19 recollection recorded, of my conversation with the  
20 President. As a private citizen, I felt free to  
21 share that. I thought it very important to get it  
22 out.

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1           SENATOR BLUNT: So were all of your memos  
2 that you've recorded on classified or other  
3 documents memos that might be yours as a private  
4 citizen?

5           MR. COMEY: I'm sorry, I'm not following the  
6 question.

7           SENATOR BLUNT: Well, I think you said you'd  
8 used classified -- a classified --

9           MR. COMEY: Oh, yes. Not the classified  
10 documents. Unclassified -- I don't have any of them  
11 anymore. I gave them to the special counsel. But,  
12 yeah, my view was that the content of those  
13 unclassified -- the memorialization of those  
14 conversations was my recollection recorded.

15          SENATOR BLUNT: So why didn't you give those  
16 to somebody yourself, rather than give them through  
17 a third party?

18          MR. COMEY: Because I was worried the media  
19 was camping at the end of my driveway at that point,  
20 and I was actually going out of town with my wife to  
21 hide, and I worried it would be like feeding  
22 seagulls at the beach --

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1 (Laughter.)

2 MR. COMEY: -- if -- if it was -- if it was  
3 I who gave it to the media. So I asked my friend,  
4 "Make sure this gets out."

5 SENATOR BLUNT: It does seem to me that what  
6 you do there is create a source close to the former  
7 director of the FBI, as opposed to just taking  
8 responsibility yourself for saying, "Here are these  
9 records."

10 And, like everybody else, I have other  
11 things I'd like to get into, but I'm out of time.

12 MR. COMEY: Okay.

13 CHAIRMAN BURR: Senator King.

14 SENATOR ANGUS KING (I-ME): Thank you.

15 First, I'd like to acknowledge Senator  
16 Blumenthal and earlier Senator Nelson. I think the  
17 one principal thing you'll learn today, Senators, is  
18 that the chairs there are less comfortable than the  
19 chairs here. But I welcome you to the hearing.

20 Mr. Comey, a broad question: Was the  
21 Russian activity in the 2016 election a one-off  
22 proposition, or is this part of a long-term



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1 strategy? Will they be back?

2 MR. COMEY: Oh, it's a long-term practice of  
3 theirs. It -- it stepped up a notch in a  
4 significant way in '16. They'll be back.

5 SENATOR KING: I think that's very important  
6 for the American people to understand, that this  
7 is -- this is very much a forward-looking  
8 investigation in terms of how do we understand what  
9 they did and how do we prevent it. Would you agree,  
10 that that's a big part of our role here?

11 MR. COMEY: Yes, sir. And it's not a  
12 Republican thing or a Democratic thing. It really  
13 is an American thing. They're going to come for  
14 whatever party they choose to try and work on behalf  
15 of. And they're -- they're not devoted to either,  
16 in my experience. They're just about their own  
17 advantage. And they will be back.

18 SENATOR KING: That's my observation. I  
19 don't think Putin is a Republican or a Democrat.  
20 He's an opportunist.

21 MR. COMEY: I think that's a fair statement.

22 SENATOR KING: With regard to the -- several

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1 of these conversations, in his interview with Lester  
2 Holt on NBC, the President said, "I had dinner with  
3 him. He wanted to have dinner because he wanted to  
4 stay on."

5 Is this an accurate statement?

6 MR. COMEY: No, sir.

7 SENATOR KING: Did you, in any way, initiate  
8 that dinner?

9 MR. COMEY: No, he -- he called me at my  
10 desk at lunchtime and asked me was I free for dinner  
11 that night. He called himself and said, "Can you  
12 come over for dinner tonight."

13 And I said, "Yes, sir."

14 He said, "Will 6 work?" I think he said 6  
15 first. And then he said, "I was going to invite  
16 your whole family, but we'll do that next time. I  
17 want you to come over. And is -- is that a good  
18 time."

19 I said, "Sir, whatever works for you."

20 And he then said, "How about 6:30?"

21 And I -- I said, "Whatever works for you,  
22 sir."

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1           And then I hung up and had to call my wife  
2           and break a date with her. I was supposed to take  
3           her out to dinner that night, and --

4           SENATOR KING: That's one of the all-time  
5           great excuses for breaking a date.

6           (Laughter.)

7           MR. COMEY: In retrospect, I would have -- I  
8           love spending time my wife. I wish I'd been there  
9           that night.

10          (Laughter.)

11          SENATOR KING: That's one question I'm not  
12          going follow up, Mr. Comey.

13          But in that same interview, the President  
14          said, "In one case, I called him, and in one case,  
15          he called me." Is that an accurate statement?

16          MR. COMEY: No.

17          SENATOR KING: Did you ever call the  
18          President?

19          MR. COMEY: No. I -- I might -- the only  
20          reason I'm hesitating is, I think there was a least  
21          one conversation where I was asked to call the White  
22          House switchboard to be connected to him, but I -- I

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1 never initiated a communication with the President.

2 SENATOR KING: And in his press conference  
3 on May 18th, the President was asked whether he had  
4 urged you to shut down the investigation into  
5 Michael Flynn. The President responded, quote, No,  
6 no. Next question.

7 Is that an accurate statement?

8 MR. COMEY: I don't believe it is.

9 SENATOR KING: Thank you.

10 With regard to the question of him being  
11 under personal -- personally under investigation,  
12 does that mean that the dossier is not being  
13 reviewed or investigated or followed up on in any  
14 way?

15 MR. COMEY: I obviously can't -- I can't  
16 comment either way. I can't talk in an open setting  
17 about the investigation as it was when I was the  
18 head of the FBI. And, obviously, it's -- it's  
19 Director Mueller's -- Bob Mueller's responsibility  
20 now, so I just -- I don't know.

21 SENATOR KING: So, clearly, your statements  
22 to the President back in those -- these various

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1 times when you assured him he wasn't under  
2 investigation, were as of that moment. That --  
3 that's correct, is it not?

4 MR. COMEY: Correct. Correct.

5 SENATOR KING: Now, on the Flynn  
6 investigation, is it not true that Mr. Flynn was and  
7 is a central figure in this entire investigation of  
8 the relationship between the Trump campaign and the  
9 Russians?

10 MR. COMEY: I can't answer that in an open  
11 setting, sir.

12 SENATOR KING: And, certainly, Mr. Flynn was  
13 part of the so-called Russian investigation. Can  
14 you answer that question?

15 MR. COMEY: I have to give you the same  
16 answer.

17 SENATOR KING: All right. We'll be having a  
18 closed session shortly, so we will follow up on  
19 that.

20 In terms of his comments to you about -- I  
21 think in response to Mr. Risch, to Senator Risch,  
22 you said he said, "I hope you will hold back on

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1 that." But when you get a -- when a President of  
2 the United States in the Oval Office says something  
3 like "I hope" or "I suggest" or -- or "would you,"  
4 do you take that as a -- as a -- as a directive?

5 MR. COMEY: Yes. Yes, it rings in my ear as  
6 kind of, "Will no one rid me of this meddlesome  
7 priest."

8 SENATOR KING: I was just going to quote  
9 that. In 1170, December 29, Henry II said, "Who  
10 will rid me of this meddlesome priest?" And then,  
11 the next day, he was killed, Thomas Becket. That's  
12 exactly the same situation. You're -- we're  
13 thinking along the same lines.

14 Several other questions, and these are a  
15 little bit more detailed. What do you know about  
16 the Russian bank, VEB?

17 MR. COMEY: Nothing that I can talk about in  
18 an open setting. I mean, I know it --

19 SENATOR KING: Well, that takes care of my  
20 next three questions.

21 MR. COMEY: I know it exists. Yes, sir.

22 SENATOR KING: You know it exists.

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1           What is the relationship of Ambassador --  
2           the ambassador from Russia to the United States to  
3           the Russian intelligence infrastructure?

4           MR. COMEY: Well, he's a diplomat who is the  
5           chief of mission at the Russian embassy, which  
6           employs a robust cohort of intelligence officers.  
7           And so, surely, he's witting of their very, very  
8           aggressive intelligence operations, at least some of  
9           it in the United States. I don't -- I don't  
10          consider him to be an intelligence officer himself.  
11          He's a diplomat.

12          SENATOR KING: Did you ever -- did the FBI  
13          ever brief the Trump Administration about the -- the  
14          advisability of interacting directly with Ambassador  
15          Kislyak?

16          MR. COMEY: I think all I can say sitting  
17          here is there were a variety of defensive briefings  
18          given to the incoming Administration about the  
19          counterintelligence risk.

20          SENATOR KING: Back to Mr. Flynn, would  
21          the -- would closing out the Flynn investigation  
22          have impeded the overall Russian investigation?

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1 MR. COMEY: No. Well, unlikely, except to  
2 the extent -- there's always a possibility, if you  
3 have a criminal case against someone and you bring  
4 in and squeeze them, you flip them, and they give  
5 you information about something else. But I saw the  
6 two as touching each other, but separate.

7 SENATOR KING: With regard to your memos,  
8 isn't it true that in a -- in a court case, when  
9 you're weighing evidence, contemporaneous memos and  
10 contemporaneous statements to third parties are  
11 considered probative in terms of the -- the -- the  
12 validity of -- of testimony?

13 MR. COMEY: Yes.

14 SENATOR KING: Thank you.

15 Thank you, Mr. Chairman.

16 CHAIRMAN BURR: Senator Cotton -- or, excuse  
17 me, Senator Lankford.

18 SENATOR JAMES LANKFORD (R-OK): Well,  
19 Director Comey, good to see you again.

20 MR. COMEY: You, too.

21 SENATOR LANKFORD: We've had multiple  
22 opportunities to be able to visit, as everyone on



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1 this dais has, and I appreciate you and your service  
2 and what you have done for the nation for a long  
3 time, which you continue to do.

4 I've told you before in the heat of last  
5 year, when we had an opportunity to visit  
6 personally, that I pray for you and for your family  
7 because you do carry a tremendous amount of stress.  
8 And that is still true today.

9 MR. COMEY: Thank you.

10 SENATOR LANKFORD: Let me -- let me walk  
11 through a couple things with you. Your notes are  
12 obviously exceptionally important, because they give  
13 a very rapid account of what you -- what you wrote  
14 down and what you perceived happened in those  
15 different meetings.

16 Have you had the opportunity to be able to  
17 reference those notes when you were preparing the  
18 written statement that you put for us today?

19 MR. COMEY: Yes, I -- yes. I think nearly  
20 all of my written recordings of my conversations,  
21 had a chance to review them before filing my  
22 statement.

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1           SENATOR LANKFORD: Do you have a copy of any  
2       those notes, personally?

3           MR. COMEY: I don't. I turned them over to  
4       Bob Mueller's investigators.

5           SENATOR LANKFORD: The individual that you  
6       told about your memos, that then was sent on to the  
7       New York Times, did they have a copy of those memos,  
8       or were they told orally of those memos?

9           MR. COMEY: Had a copy -- had a copy at the  
10      time.

11          SENATOR LANKFORD: Do they -- do they still  
12      have a copy of those memos?

13          MR. COMEY: That's a good question. I think  
14      so. I guess I can't say for sure, sitting here, but  
15      I -- I -- I guess I don't know, but I think so.

16          SENATOR LANKFORD: So the question is, could  
17      you ask them to hand that copy right back to you, so  
18      you could hand them over to this committee?

19          MR. COMEY: Potentially.

20          SENATOR LANKFORD: I would like to move that  
21      from "potential" to "see if we can ask that  
22      question," so we can have a copy of those.

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1 Obviously, those notes are exceptionally important  
2 to us to be able to go through the process so we  
3 can -- we can continue to get to the facts as -- as  
4 we see it. As you know, the written documents are  
5 exceptionally important.

6 Are there other documents that we need to be  
7 aware of that you used in your preparation for your  
8 written statement that we should also have, that  
9 would assist us in helping with this?

10 MR. COMEY: Not that I'm aware of, no.

11 SENATOR LANKFORD: Past the February the  
12 14th meeting, which is a very important meeting,  
13 obviously, as we discuss the conversations here  
14 about Michael Flynn.

15 When the President asked you about he hopes  
16 that you would let this go, and the conversation  
17 back and forth about him being a good guy. After  
18 that time, did the President ever bring up anything  
19 about Michael Flynn again to you? You had multiple  
20 other conversations you have documented with the  
21 President.

22 MR. COMEY: No, I don't remember him ever

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1 bringing it up again.

2 SENATOR LANKFORD: Did any member of the  
3 White House staff ever come to you and talk to you  
4 about letting go of the Michael Flynn case, or  
5 dropping it, or anything referring to that?

6 MR. COMEY: No. Nope.

7 SENATOR LANKFORD: Did the director of  
8 national intelligence come to you and talk to you  
9 about that?

10 MR. COMEY: No.

11 SENATOR LANKFORD: Did anyone from the  
12 Attorney General's office, the Department of  
13 Justice, ask you about that?

14 MR. COMEY: No.

15 SENATOR LANKFORD: Did the head of NSA talk  
16 to you about that?

17 MR. COMEY: No.

18 SENATOR LANKFORD: The -- the key aspect  
19 here is, if -- if -- if this seems to be something  
20 the President's trying to get you to drop it, this  
21 seems like a pretty light touch to drop it, to bring  
22 it up at that moment, the day after he had just

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1 fired Flynn, to come back in and say, I hope we can  
2 let this go, but then it never reappears again.

3 Did it -- did it slow down your  
4 investigation or any investigation that may or may  
5 not be occurring with Michael Flynn?

6 MR. COMEY: No, although I don't know  
7 there're any manifestations -- outward  
8 manifestations of the investigation between February  
9 14th and when I was fired. So I -- I don't know  
10 that the President had any way of knowing whether it  
11 was effective or not.

12 SENATOR LANKFORD: Okay. That's fair  
13 enough.

14 If -- if the President wanted to stop an  
15 investigation, how would he do that? Knowing it's  
16 an ongoing criminal investigation or  
17 counterintelligence investigation, would that be a  
18 matter of trying to go to you, you perceive, and to  
19 say you make it stop because he doesn't have the  
20 authority to stop, or how -- how would the President  
21 make an ongoing investigation stop?

22 MR. COMEY: Again, I'm not a legal scholar.

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1 So smarter people answer this better, but I think as  
2 a legal matter, the President is the head of the  
3 executive branch and could direct, in theory, we  
4 have important norms against this, but direct that  
5 anybody be investigated or anybody not be  
6 investigated.

7 I think he has the legal authority because  
8 all of us ultimately report in the executive branch  
9 up to the President.

10 SENATOR LANKFORD: Okay. Would that be to  
11 you, would that be to the attorney general, would  
12 that be to who, that would do that?

13 MR. COMEY: I suppose he could do it to --  
14 if he wanted to issue a direct order, could do it in  
15 any way, could do it through the attorney general or  
16 issue it directly to me.

17 SENATOR LANKFORD: Well -- well, is there  
18 any question that the President is not real fond of  
19 this investigation? I -- I can think of multiple  
20 140-word character expressions that he's done  
21 publicly to express he's not fond of the  
22 investigation.

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1           So I've heard you share before in this  
2 conversation that you're trying to keep the agents  
3 that are working on it away from any comment the  
4 President might have made. Quite frankly, the  
5 President has informed around 6 billion people that  
6 he's not real fond of this investigation.

7           Do you think there's a difference in that?

8           MR. COMEY: Yes.

9           SENATOR LANKFORD: Okay. What would that  
10 be?

11           MR. COMEY: I think there's a big difference  
12 in kicking superior officers out of the Oval Office,  
13 looking the FBI director in the eye and saying,  
14 "Hope you'll let this go."

15           I think if our -- if the agents, as good as  
16 they are, heard the President of the United States  
17 did that --

18           SENATOR KING: That's you.

19           MR. COMEY: -- there's a real risk of a  
20 chilling effect on their work. That's why we kept  
21 it so tight.

22           SENATOR LANKFORD: Okay. Okay. You had

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1 mentioned before about some news stories and news  
2 accounts. Without having to go into all the names  
3 and the specific times and to be able dip into all  
4 that, have there been news accounts about the Russia  
5 investigation, about collusion, about this whole  
6 event or accusations, that as you read the story,  
7 you were stunned about how wrong they got the facts?

8 MR. COMEY: Yes. There's been many, many  
9 stories, purportedly based on classified information  
10 about -- well, about lots of stuff, but especially  
11 about Russia, that are just dead wrong.

12 SENATOR LANKFORD: I was interested in your  
13 comment that you made as well, that the President  
14 said to you, if there were some satellite associates  
15 of his that did something wrong, it would be good to  
16 find that out.

17 That the President seemed to talk to you  
18 specifically on March the 30th and say, "I'm  
19 frustrated that the word is not getting out that I'm  
20 not under investigation, but if there are people  
21 that are in my circle that are, let's finish the  
22 investigation."



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1 Is that how you took it, as well?

2 MR. COMEY: Yes, sir. Yes.

3 SENATOR LANKFORD: And then you made a  
4 comment earlier about the attorney general --  
5 previous attorney general -- asking you about the  
6 investigation on the Clinton e-mails, saying that  
7 you'd been asked not to call it an "investigation"  
8 anymore, but to call it a "matter." And you had  
9 said that confused you.

10 Can you give us additional details on that?

11 MR. COMEY: Well, it concerned me because we  
12 were at the point where we had refused to confirm  
13 the existence, as we typically do, of an  
14 investigation, for months, and it was getting to a  
15 place where that looked silly, because the campaigns  
16 were talking about interacting with the FBI in the  
17 course of our work.

18 The -- the Clinton campaign at the time was  
19 using all kind of euphemisms, "security review,"  
20 "matters," things like that, for what was going on.  
21 We were getting to a place where the attorney  
22 general and I were both going to have to testify and

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1 talk publicly about it, and I wanted to know, was  
2 she going to authorize us to confirm we had an  
3 investigation.

4 And she said, "Yes, but don't call it that,  
5 call it a matter."

6 And I said, "Why would I do that?"

7 And she said, "Just call it a matter."

8 And, again, you look back in hindsight, you  
9 think, should I have resisted harder? I just said,  
10 all right, isn't worth -- this isn't a hill worth  
11 dying on, and so I just said, "Okay. The press is  
12 going to completely ignore it." And that's what  
13 happened.

14 When I said, "We have opened a matter," they  
15 all reported, "The FBI has an investigation open."  
16 And so that concerned me because that language  
17 tracked the way the campaign was talking about the  
18 FBI's work, and that -- that's concerning.

19 SENATOR LANKFORD: It gave the impression  
20 that the campaign was somehow using the same  
21 language as the FBI, because you were handed the  
22 campaign language and told to be able to use the

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1 campaign language --

2 MR. COMEY: Yeah -- and -- and, again, I  
3 don't know whether it was intentional or not, but it  
4 gave the impression that the attorney general was  
5 looking to align the way we talked about our work  
6 with the way a political campaign was describing the  
7 same activity, which was inaccurate. We had a  
8 criminal investigation open with, as I said before,  
9 the Federal Bureau of Investigation. We had an  
10 investigation open at the time, and so that gave me  
11 a queasy feeling.

12 SENATOR LANKFORD: Thank you.

13 CHAIRMAN BURR: Senator Manchin.

14 SENATOR JOE MANCHIN (D-WV): Thank you,  
15 Mr. Chairman.

16 Thank you, Mr. Comey. I appreciate very  
17 much your being here.

18 West Virginia is very interested in this --  
19 in this hearing that we're having today. I've had  
20 over 600 requests for questions to ask you from my  
21 fellow West Virginians, and most of them have been  
22 asked. And there's a quite a few of them that were

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1 quite detailed that I'll ask in our classified  
2 hearing.

3 I want to thank you, first of all, for  
4 coming and agreeing to be here, volunteering. But  
5 also volunteering to stay into the classified  
6 hearing.

7 I don't know if you had a chance to watch  
8 our hearing yesterday.

9 MR. COMEY: I watched part of it, yes, sir.

10 SENATOR MANCHIN: And it was quite  
11 troubling. My colleagues here had some very pointed  
12 questions they wanted answers to. They weren't  
13 classified. They could have answered in this open  
14 setting. They refused to do so. So that even  
15 much -- makes us much more appreciative of your  
16 cooperation.

17 Sir, the seriousness of the Russian  
18 aggressions in our past elections, and knowing that  
19 it'll be ongoing, as Senator King had alluded to,  
20 does -- what's your concerns there? I mean, what  
21 should American public understand? People said,  
22 "Well, this is a -- why are we worried about this?

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1 Why make such a big deal out of this Russian  
2 investigation?"

3 Can you tell me what your thoughts would be?

4 MR. COMEY: Yes, sir.

5 SENATOR MANCHIN: And then the final thing  
6 is on this same topic: Did the President ever show  
7 any concern or interest or curiosity about what the  
8 Russians were doing?

9 MR. COMEY: Thank you, Senator.

10 As I said earlier, I don't remember any  
11 conversations with the President about the Russia  
12 election interference.

13 SENATOR MANCHIN: Did he ever ask you any  
14 questions concerning this?

15 MR. COMEY: Well, there was an initial  
16 briefing of our findings, and I think there was  
17 conversation there, I don't remember it exactly,  
18 where he asked questions about what we had found and  
19 what our sources were and what our confidence level  
20 was. But after that, I don't remember anything.

21 The reason this is such a big deal has -- we  
22 have this big, messy, wonderful country where we

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1 fight with each other all the time, but nobody tells  
2 us what to think, what to fight about, what to vote  
3 for, except other Americans, and that's wonderful  
4 and often painful.

5 But we're talking about a foreign government  
6 that using technical intrusion, lots of other  
7 methods, tried to shape the way we think, we vote,  
8 we act. That is a big deal. And people need to  
9 recognize it. It's not about Republicans or  
10 Democrats. They're coming after America, which I  
11 hope we all love equally. They want to undermine  
12 our credibility in the face of the world. They  
13 think that this great experiment of ours is a threat  
14 to them, and so they're going to try to run it down  
15 and dirty it up as much as possible.

16 That's what this is about. And they will be  
17 back, because we remain, as difficult as we can be  
18 with each other, we remain that shining city on the  
19 hill, and they don't like it.

20 SENATOR MANCHIN: So this is extremely  
21 important. It's extremely dangerous, what we're --  
22 what we're dealing with, and it's needed, is what

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1     you're saying?

2             MR. COMEY: Yes, sir.

3             SENATOR MANCHIN: Do you believe there were  
4     any tapes or recordings of your conversations with  
5     the President?

6             MR. COMEY: It never occurred to me until  
7     the President's tweet. I -- I'm not being  
8     facetious, I hope there are, and I'll consent to the  
9     release of them.

10            SENATOR MANCHIN: So both of you -- both of  
11    you are in the same findings here, you both hope  
12    there's tapes and recordings?

13            MR. COMEY: Well, I mean, all I can do is  
14    hope. The President surely knows whether he taped  
15    me. And if he did, my feelings aren't hurt.  
16    Release the entire -- release all the tapes. I'm  
17    good with it.

18            SENATOR MANCHIN: Got you. Got you.

19            Sir, do you believe that Robert Mueller,  
20    the -- our new special investigator on Russia, will  
21    be thorough and complete, without political  
22    intervention? And would you be confident on these

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1 findings and recommendations?

2 MR. COMEY: Yes. Bob Mueller is one of the  
3 finest people and public servants this country's  
4 ever produced. He will do it well. He is a dogged,  
5 tough person, and you can have high confidence that  
6 when it's done, he's turned over all the rocks.

7 SENATOR MANCHIN: You've been asked a wide  
8 variety of -- of questions today, and we're going to  
9 be hearing more, I'm sure, in our classified  
10 hearing. Something I'll often ask folks when they  
11 come here, what details of this saga would be --  
12 should we be focusing on, and what would you  
13 recommend us do differently, or to adjust our  
14 perspective on this?

15 MR. COMEY: I don't know. I -- and one of  
16 the reasons that I'm pleased to be here is I think  
17 this committee has shown the American people,  
18 although we have two parties and we disagree about  
19 important things, we can work together when it  
20 involves the core interests of the country. So I  
21 would hope you'll just keep doing what you're doing.  
22 It's -- it's good in and of itself, but it's also a



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1 model, especially for kids, that we -- we are a  
2 functioning, adult democracy.

3 SENATOR MANCHIN: And you also mentioned you  
4 had -- I think, what, six -- six meetings -- three  
5 times in person, six on the phone, nine times in  
6 conversation with the President. Did he ever at  
7 that time allude that you were not performing  
8 adequately? Ever indicate that at all?

9 MR. COMEY: No. In fact, the contrary,  
10 quite often. Yeah, he called me one day. I was  
11 about to get on a helicopter. The head of the DEA  
12 was waiting in the helicopter for me. And he just  
13 called to check in and tell me I was doing an  
14 awesome job, and wanted to see how I was doing. And  
15 I said, "I'm doing fine, sir." And then I finished  
16 the call and got on the helicopter.

17 SENATOR MANCHIN: Mr. Comey, do you believe  
18 you would have been fired if Hillary Clinton had  
19 become President?

20 MR. COMEY: That's a great question. I  
21 don't know. I don't know.

22 SENATOR MANCHIN: You have any thoughts

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1 about it?

2 MR. COMEY: I might have been. I -- I don't  
3 know. Look, I -- I've said before, that was an  
4 extraordinarily difficult and painful time. I think  
5 I did what I had to do. I knew it was going to be  
6 very bad for me personally, and the consequences of  
7 that might have been, if Hillary Clinton was  
8 elected, I might have been terminated. I don't  
9 know. I really don't.

10 SENATOR MANCHIN: My final question will be,  
11 after the February 14th meeting in the Oval Office,  
12 you mentioned that you asked Attorney General  
13 Sessions to ensure that you were never left alone  
14 with the President.

15 Did you ever consider why Attorney General  
16 Sessions was not asked to stay in the room?

17 MR. COMEY: Oh, sure, I did, and -- and  
18 have. And, in that moment, I knew --

19 SENATOR MANCHIN: Did you ever talk to him  
20 about it?

21 MR. COMEY: No.

22 SENATOR MANCHIN: You never had a discussion

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1 with -- with Jeff Sessions on this?

2 MR. COMEY: No. Not at all.

3 SENATOR MANCHIN: On any of your meetings?

4 MR. COMEY: No, I don't --

5 SENATOR MANCHIN: Did he inquire -- did  
6 he -- did he show any inquiry whatsoever what was  
7 that meeting about?

8 MR. COMEY: No. You're right, I did say to  
9 him -- I'd forgotten this. When I talked to him and  
10 said, "You have to be between me and the President,  
11 and that's incredibly important," and I forget my  
12 exact words, I passed along the President's message  
13 about the importance of aggressively pursuing leaks  
14 of classified information, which is a -- a goal I  
15 share. And I passed that along to -- to the  
16 attorney general, I think it was the next morning,  
17 in our -- in a meeting. And -- but I did not tell  
18 him about the Flynn part.

19 SENATOR MANCHIN: Do you believe this will  
20 rise to obstruction of justice?

21 MR. COMEY: I don't know. That -- that's  
22 Bob Mueller's job to sort that out.

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1 SENATOR MANCHIN: Thank you, sir.

2 Mr. Chairman.

3 CHAIRMAN BURR: Senator Cotton.

4 SENATOR TOM COTTON (R-AR): Mr. Comey, you  
5 encouraged the President to release the tapes. Will  
6 you encourage the Department of Justice or your  
7 friend at Columbia or Mr. Mueller to release your  
8 memos?

9 MR. COMEY: Sure.

10 SENATOR COTTON: You said that there -- you  
11 did not record your conversations with President  
12 Obama or President Bush in memos. Did you do so  
13 with Attorney General Sessions or any other senior  
14 member of the Trump Department of Justice?

15 MR. COMEY: No.

16 SENATOR COTTON: Did you --

17 MR. COMEY: I think it -- I'm sorry.

18 SENATOR COTTON: Did you record  
19 conversations in memos with Attorney General Lynch  
20 or any other senior member of the Obama Department  
21 of Justice?

22 MR. COMEY: No, not that I recall.

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1           SENATOR COTTON: In your statement for the  
2 record, you cite nine private conversations with the  
3 President, three meetings and two phone calls.  
4 There are four phone calls that are not discussed in  
5 your statement for the record. What happened in  
6 those phone calls?

7           MR. COMEY: The President called me, I  
8 believe, shortly before he was inaugurated, as a  
9 follow-up to our conversation -- private  
10 conversation on January the 6th. He just wanted to  
11 reiterate his rejection of the allegation and talk  
12 about -- he thought about it more, and why he  
13 thought it wasn't true -- the -- the verified --  
14 unverified and salacious parts. And -- and during  
15 that call, he asked me again, "Hope you're going to  
16 stay, you're doing a great job." And I told him  
17 that I intended to.

18           There was another phone call that I  
19 mentioned, I think was -- could have the date  
20 wrong -- March the 1st, where he called just to  
21 check in with me as I was about to get on the  
22 helicopter.

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1           There was a secure call we had about an --  
2           an operational matter that was not related to any of  
3           this, about something the FBI was working on. He  
4           wanted to make sure that I understood how important  
5           he thought it was, a totally appropriate call.

6           And then the fourth call -- I'm probably  
7           forgetting. May have been the -- I may have meant  
8           the call, when he called to invite me to dinner.  
9           I'll think about as I'm answering other questions,  
10          but I think I got that right.

11          SENATOR COTTON: Let's turn our attention to  
12          the underlying activity at issue here: Russia's  
13          hacking into those e-mails and releasing them, and  
14          the allegations of collusion.

15          Do you believe Donald Trump colluded with  
16          Russia?

17          MR. COMEY: That's a question I don't think  
18          I should answer in an open setting. As I said, that  
19          we -- we didn't -- when I left, we did not have an  
20          investigation focused on President Trump. But  
21          that's a question that'll be answered by the  
22          investigation, I think.

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1           SENATOR COTTON: Let me turn to a couple of  
2 statements by one of my colleagues, Senator  
3 Feinstein. She was the Ranking Member on this  
4 committee until January, which means she had access  
5 to information that only she and Chairman Burr did.  
6 She's now the senior Democrat on the -- on the  
7 Judiciary Committee, meaning she has access to the  
8 FBI that most of us don't.

9           On May 3rd, on CNN's Wolf Blitzer's show,  
10 she was asked, "Do you believe, do you have evidence  
11 that there was, in fact, collusion between Trump  
12 associates and Russia during the campaign?"

13           She answered, "Not at this time."

14           On May 18th, the same show, Mr. Blitzer  
15 said, "The last time we spoke, Senator, I asked if  
16 you had actually seen any evidence of collusion  
17 between the Trump campaign and the Russians, and you  
18 said to me, and I'm quoting you now -- you said,  
19 'Not at this time.' Has anything changed since we  
20 last spoke?"

21           Senator Feinstein said, "Well, no. No, it  
22 hasn't."

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1 Do you have any reason to doubt those  
2 statements?

3 MR. COMEY: I don't doubt that Senator  
4 Feinstein was saying what -- what she understood. I  
5 just don't want to go down that path, first of all,  
6 because I'm not in the government anymore, and  
7 answering in the negative, I just worry, leads me  
8 deeper and deeper into talking about the  
9 investigation in an open setting. I don't -- I -- I  
10 want to be -- I'm always trying to be fair. I don't  
11 want to be unfair to President Trump. I'm not  
12 trying to suggest by my answer something nefarious,  
13 but I don't want to get into the business of saying  
14 not as to this person, not as to that person.

15 SENATOR COTTON: On February 14th, the New  
16 York Times published a story, the headline of which  
17 was, "Trump Campaign Aides Had Repeated Contacts  
18 With Russian Intelligence."

19 You were asked earlier if that was an  
20 inaccurate story, and you said, in the main. Would  
21 it be fair to characterize that story as almost  
22 entirely wrong?



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1 MR. COMEY: Yes.

2 SENATOR COTTON: Did you have, at the time  
3 that story was published, any indication of any  
4 contact between Trump people and Russians,  
5 intelligence officers, other government officials or  
6 close associates of the Russian government?

7 MR. COMEY: This one, I can't answer,  
8 sitting here.

9 SENATOR COTTON: We can discuss that in a  
10 classified setting then.

11 I want to turn attention now to Mr. Flynn  
12 and the allegations of his underlying conduct, to be  
13 specific, his alleged interactions with the Russian  
14 ambassador on the telephone, and then what he said  
15 to senior Trump Administration officials and  
16 Department of Justice officials.

17 I understand there are other issues with  
18 Mr. Flynn related to his receipt of foreign moneys  
19 or disclosure of potential advocacy activity on  
20 behalf of foreign governments. Those are serious  
21 and credible allegations that I'm sure will be  
22 pursued, but I want to speak specifically about his

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1 interactions with the Russian ambassador.

2 There was a story on January 23rd in the  
3 Washington Post that says -- entitled, "FBI reviewed  
4 Flynn's calls with Russian ambassador but found  
5 nothing illicit."

6 Is this story accurate?

7 MR. COMEY: I don't want to comment on that,  
8 Senator, because I -- I'm pretty sure the bureau has  
9 not confirmed any interception of communications.  
10 And so I don't want to talk about that in an open  
11 setting.

12 SENATOR COTTON: Would it be improper for an  
13 incoming national security adviser to have a  
14 conversation with a foreign ambassador?

15 MR. COMEY: In my -- in my experience, no.

16 SENATOR COTTON: But you can't confirm or  
17 deny that the conversation happened, and we would  
18 need to know the contents of that conversation to  
19 know if it was, in fact, improper?

20 MR. COMEY: Yeah, I don't think I can talk  
21 about that in an open setting. And, again, I've  
22 been out of government now a month, so I don't -- I

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1 also don't want to talk about things when it's now  
2 somebody else's responsibility. But maybe in the --  
3 in the classified setting, we can talk more about  
4 that.

5 SENATOR COTTON: You stated earlier that  
6 there wasn't an open investigation of Mr. Flynn in  
7 the FBI. Did you or any FBI agent ever sense that  
8 Mr. Flynn attempted to deceive you, or made false  
9 statements to an FBI agent?

10 MR. COMEY: I don't want to go too far.  
11 That was the subject of the criminal inquiry.

12 SENATOR COTTON: Did you ever come close to  
13 closing the investigation on Mr. Flynn?

14 MR. COMEY: I don't think I can talk about  
15 that in an open setting, either.

16 SENATOR COTTON: We can discuss these more  
17 in a closed setting, then.

18 Mr. Comey, in -- in 2004, you were a part of  
19 a well-publicized event about a intelligence program  
20 that had been recertified several times, and you  
21 were acting attorney general when Attorney General  
22 John Ashcroft was incapacitated due to illness.

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1 There was a dramatic showdown at the hospital here.

2 The next day, you've said that you wrote a  
3 letter of resignation, and signed it, before you  
4 went to meet with President Bush to explain why you  
5 refused to certify it. Is that accurate?

6 MR. COMEY: Yes, I think so.

7 SENATOR COTTON: At any time in the three  
8 and half months you were the FBI director during the  
9 Trump Administration, did you ever write and sign a  
10 letter of recommendation and leave it on your desk?

11 MR. COMEY: Letter of resignation? No, sir.

12 SENATOR COTTON: Letter of resignation.

13 MR. COMEY: No, sir.

14 SENATOR COTTON: So despite all of the  
15 things that you've testified to here today, you  
16 didn't feel this rose to the level of an honest but  
17 serious difference of legal opinion between  
18 accomplished and skilled lawyers in that 2004  
19 episode?

20 MR. COMEY: I wouldn't characterize the  
21 circumstances of 2004 that way. But to answer, no,  
22 I -- I didn't find -- encounter any circumstance

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1 that led me to intend to resign, consider to resign.

2 No, sir.

3 SENATOR COTTON: Thank you.

4 CHAIRMAN BURR: Senator Harris.

5 SENATOR KAMALA HARRIS (D-CA): Director  
6 Comey, I want to thank you. You are now a private  
7 citizen, and you are enduring a Senate Intelligence  
8 Committee hearing, and each of us get seven minutes  
9 instead of five, as yesterday, to ask you questions.  
10 So thank you.

11 MR. COMEY: Now I'm -- I'm between  
12 opportunities now, so --

13 SENATOR HARRIS: Well, you're -- you are --  
14 (Laughter.)

15 SENATOR HARRIS: I'm sure you'll have future  
16 opportunities.

17 You know, you and I are both former  
18 prosecutors. I'm not going to require you to  
19 answer, I just want make a statement that in -- in  
20 my -- my experience of prosecuting cases, when a  
21 robber held a gun to somebody's head and -- and  
22 said, "I hope you will give me your wallet," the

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1 word "hope" was not the most operative word at that  
2 moment. But I'll -- you don't have to respond to  
3 that point.

4 I have a series of questions to ask you,  
5 and -- and they're going to start with, are you  
6 aware of any meetings between the Trump  
7 Administration officials and Russian officials  
8 during the campaign that have not been acknowledged  
9 by those officials in the White House?

10 MR. COMEY: That's not a -- even if I  
11 remember clearly, that's a not a question I can  
12 answer in an open setting.

13 SENATOR HARRIS: Are you aware of any  
14 efforts by Trump campaign officials or associates of  
15 the campaign to hide their communications with  
16 Russian officials through encrypted communications  
17 or other means?

18 MR. COMEY: I have to give you same answer,  
19 Senator.

20 SENATOR HARRIS: Sure.

21 In the course of the FBI's investigation,  
22 did you ever come across anything that suggested

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1 that communications, records, documents or other  
2 evidence had been destroyed?

3 MR. COMEY: I think I've got to give you the  
4 same answer, because it -- it would touch on  
5 investigative matters.

6 SENATOR HARRIS: And are you aware of any  
7 efforts or potential efforts to conceal  
8 communications between campaign officials and  
9 Russian officials?

10 MR. COMEY: I think I have to give you the  
11 same answer, Senator.

12 SENATOR HARRIS: Thank you.

13 As a former attorney general, I have a  
14 series of questions about your connection with the  
15 attorney general during the course of your tenure as  
16 director.

17 What is your understanding of the parameters  
18 of General Sessions' recusal from the Russia --  
19 Russia investigation?

20 MR. COMEY: I think it's described in a  
21 written release or statement from DOJ, which I don't  
22 remember, sitting here, but the gist was he would be

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1       recused from all matters relating to Russia and the  
2       campaign, or activities of Russia and the '16  
3       election, I think. Something like that.

4               SENATOR HARRIS: Is -- so is your knowledge  
5       of the extent of his recusal based on the public  
6       statements he's made, or the --

7               MR. COMEY: Correct.

8               SENATOR HARRIS: Okay. So was there any  
9       kind of memorandum issued from the attorney general  
10      or the Department of Justice to the FBI, outlining  
11      the parameters of his recusal?

12              MR. COMEY: Not that I'm aware of.

13              SENATOR HARRIS: And do you know if he  
14      reviewed any FBI or DOJ documents pertaining to the  
15      investigation before he was recused?

16              MR. COMEY: I don't. I don't know.

17              SENATOR HARRIS: And after he was recused?  
18      I'm assuming it's the same answer.

19              MR. COMEY: Same answer.

20              SENATOR HARRIS: And as -- aside from any  
21      notice or memorandum that was not sent or was, what  
22      mechanism or processes were in place to ensure that



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1 the attorney general would not have any connection  
2 with the investigation, to your knowledge?

3 MR. COMEY: I don't know for sure. I know  
4 that he had consulted with career ethics officials  
5 that know how to run a recusal at DOJ, but I don't  
6 know what mechanism they set up.

7 SENATOR HARRIS: And the attorney general  
8 recused himself from the investigation, but do you  
9 believe it was appropriate for him to be involved in  
10 the firing of the chief investigator of that case --  
11 of that Russia interference?

12 MR. COMEY: That's something I can't answer,  
13 sitting here. It -- it's a reasonable question, but  
14 that would depend on a lot of things I don't know,  
15 like what did he know, what was he told, did he  
16 realize that the President was doing it because of  
17 the Russia investigation. Things like that. I just  
18 don't know the answer.

19 SENATOR HARRIS: You've mentioned in your  
20 written testimony and here that the President  
21 essentially asked you for a loyalty pledge. Are you  
22 aware of him making the same request of any other

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1 members of the Cabinet?

2 MR. COMEY: I am not.

3 SENATOR HARRIS: Do you know one way or  
4 another what he --

5 MR. COMEY: I don't know one way or another.  
6 I never heard anything about it.

7 SENATOR HARRIS: And you mentioned that  
8 on -- you had the conversation where he hoped that  
9 you would let the Flynn matter go on February 14th  
10 or thereabouts. It's my understanding that  
11 Mr. Sessions was recused from any involvement in the  
12 investigation about a full two weeks later.

13 To your knowledge, was the attorney  
14 general -- did he have access to information about  
15 the investigation in those interim two weeks?

16 MR. COMEY: I -- I don't -- I -- in theory,  
17 sure, because he's the attorney general. I don't  
18 know whether he had any contact with any materials  
19 related to that.

20 SENATOR HARRIS: To your knowledge, was  
21 there any directive that he should not have any  
22 contact with any information about the Russia

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1 investigation between the February 14th date and the  
2 day he was ultimately recused -- or recused himself,  
3 on March 2nd?

4 MR. COMEY: Not to my knowledge. I don't  
5 know one way or another.

6 SENATOR HARRIS: And did you speak to the  
7 attorney general about the Russia investigation  
8 before his recusal?

9 MR. COMEY: I don't think so, no.

10 SENATOR HARRIS: Do you know if anyone in  
11 the department, in the FBI, forwarded any documents  
12 or information or memos of any sort to the attention  
13 of the attorney general before his recusal?

14 MR. COMEY: I don't -- I don't know of any,  
15 remember any, sitting here. It's possible, but I --  
16 I don't remember any.

17 SENATOR HARRIS: Do you know if the attorney  
18 general was involved, in fact involved, in any  
19 aspect of the Russia investigation after his recusal  
20 on the 2nd of March?

21 MR. COMEY: I don't. I would assume not,  
22 but I don't -- I don't -- let me say it this way. I

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1 don't know of any information that would lead me to  
2 believe he did something to touch the Russia  
3 investigation after the recusal.

4 SENATOR HARRIS: In your written testimony,  
5 you indicate that you -- when you -- after you were  
6 left alone with the President, you mentioned that it  
7 was inappropriate and should never happen again to  
8 the attorney general. And, apparently, he did not  
9 reply, and you write that he did not reply.

10 What did he do, if anything? Did he just  
11 look at you? Was there a pause for a moment? What  
12 happened?

13 MR. COMEY: I -- I don't remember real  
14 clearly. I -- I have a recollection of him just  
15 kind of looking at me -- and there's a danger here  
16 I'm projecting onto him, so this may be a faulty  
17 memory -- but I kind of got -- his body language  
18 gave me the sense like, "What am I going to do?"

19 SENATOR HARRIS: Did he shrug?

20 MR. COMEY: I -- I don't remember clearly.  
21 I think the reason I have that impression is I have  
22 some recollection of almost an imperceptible, like,

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1 "What am I going to do?" But I don't have a clear  
2 recollection of that. He didn't say anything.

3 SENATOR HARRIS: And on that same February  
4 14th meeting, you said you understood the President  
5 to be requesting that you drop the investigation.

6 After that meeting, however, you received  
7 two calls from the President, March 30th and April  
8 11th, where the President talked about a cloud over  
9 his presidency.

10 Has anything you've learned in the months  
11 since your February 14th meeting changed your  
12 understanding of the President's request? I guess  
13 it would be what he has said in public documents or  
14 public interviews?

15 MR. COMEY: Correct.

16 SENATOR HARRIS: Okay. And is there  
17 anything about this investigation that you believe  
18 is in any way biased or is -- is -- is not being  
19 informed by a -- a process of seeking the truth?

20 MR. COMEY: No. The -- the appointment of a  
21 special counsel should offer great -- especially  
22 given who that person is -- great comfort to

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1 Americans, no matter what your political affiliation  
2 is, that this will be done independently,  
3 competently, and honestly.

4 SENATOR HARRIS: And do you believe that he  
5 should have full authority, Mr. Mueller, to be able  
6 to pursue that investigation?

7 MR. COMEY: Yes, and I -- and knowing him  
8 well over the years, if there's something that he  
9 thinks he needs, he will -- he will speak up about  
10 it.

11 SENATOR HARRIS: Do you believe he should  
12 have full independence?

13 MR. COMEY: Oh, yeah. And he wouldn't be  
14 part of it if he wasn't going to get full  
15 independence.

16 SENATOR HARRIS: Thank you.

17 CHAIRMAN BURR: Senator Cornyn.

18 SENATOR JOHN CORNYN (R-TX): Thank you,  
19 Mr. Chairman.

20 Mr. Comey, I'll repeat what I've said at  
21 previous hearings, that I believe you're a good and  
22 decent man who's been dealt a very difficult hand,

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1 starting back with the Clinton e-mail investigation.  
2 And I appreciate your willingness to appear here  
3 today voluntarily and answer our questions and  
4 cooperate with our investigation.

5 As a general matter, if an FBI agent has  
6 reason to believe that a crime has been committed,  
7 do they have a duty to report it?

8 MR. COMEY: That's a good question. I don't  
9 know that there's a legal duty to report it. They  
10 certainly have a cultural, ethical duty to report  
11 it.

12 SENATOR CORNYN: You're unsure whether they  
13 would have a legal duty?

14 MR. COMEY: It's a good question. I've not  
15 thought about it before. I don't know where the  
16 legal -- there's a statute that prohibits misprision  
17 of a felony, knowing of a felony and taking steps to  
18 conceal it, but this is a different question.

19 And so, look, let me be clear, I would  
20 expect any FBI agent who has reason -- information  
21 about a crime being committed to report it.

22 SENATOR CORNYN: Me, too.

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1 MR. COMEY: But where you rest that  
2 obligation, I don't know. It exists.

3 SENATOR CORNYN: And let me ask you, as a  
4 general proposition, if you're trying to make an  
5 investigation go away, is firing an FBI director a  
6 good way to make that happen? By that, I mean --

7 MR. COMEY: Yeah.

8 SENATOR CORNYN: -- doesn't --

9 MR. COMEY: It doesn't make a lot of sense  
10 to me, but I'm -- I'm obviously hopelessly biased,  
11 given that I was the one fired.

12 (Laughter.)

13 SENATOR CORNYN: I understand, it's  
14 personal.

15 MR. COMEY: No, given the nature of the FBI,  
16 I meant what I said. There's no indispensable  
17 people in the world, including at the FBI. That --  
18 there's lots of bad things about me not being at the  
19 FBI. Most of them are for me. But the work's going  
20 to go on as before.

21 SENATOR CORNYN: So nothing that's happened  
22 that you've testified to here today has impeded the



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1 investigation of the FBI or Director Mueller's  
2 commitment to get to the bottom of this from the  
3 standpoint of the FBI and the Department of Justice;  
4 would you agree with that?

5 MR. COMEY: Correct, especially the  
6 appointment of Director -- Former Director Mueller,  
7 is a critical part of that equation.

8 SENATOR CORNYN: Let me take you back to the  
9 Clinton e-mail investigation. I think you've been  
10 cast as a hero or a villain, depending on the --  
11 whose political ox is being gored, at many different  
12 times during the course of the Clinton e-mail  
13 investigation, and even -- even now, perhaps.

14 But you clearly were troubled by the conduct  
15 of the sitting attorney general, Loretta Lynch, when  
16 it came to the Clinton e-mail investigation. You  
17 mentioned the characterization that you'd been asked  
18 to accept that this was a "matter" and not a  
19 criminal investigation, which you've said it -- it  
20 was.

21 There was the matter of President Clinton's  
22 meeting on the tarmac with the sitting attorney

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1 general, at a time when his wife was subject to a  
2 criminal investigation, and you've suggested that  
3 perhaps there are other matters that you may be able  
4 to share with us later on in a classified setting.

5 But it seems to me that you clearly believe  
6 that Loretta Lynch, the attorney general, had a --  
7 an appearance of a conflict of interest on the  
8 Clinton e-mail investigation; is that correct?

9 MR. COMEY: I think that's fair. I didn't  
10 believe she could credibly decline that  
11 investigation, at least, not without grievous damage  
12 to the Department of Justice and to the FBI.

13 SENATOR CORNYN: And under Department of  
14 Justice and FBI norms, wouldn't it have been  
15 appropriate for the attorney general, or if she had  
16 recused herself, which she did not do, for the  
17 deputy attorney general to appoint a special  
18 counsel?

19 That's essentially what's happened now with  
20 Director Mueller. Would that have been an  
21 appropriate step in the Clinton e-mail  
22 investigation, in your opinion?

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1 MR. COMEY: Yes, certainly a possible step.

2 Yes, sir.

3 SENATOR CORNYN: And were you aware that  
4 Ms. Lynch had been requested numerous times to  
5 appoint a special counsel, and had refused?

6 MR. COMEY: Yes, from -- I think Congress  
7 had -- members of Congress had repeatedly asked.  
8 Yes, sir.

9 SENATOR CORNYN: Yours truly --

10 MR. COMEY: Okay.

11 SENATOR CORNYN: -- did on multiple  
12 occasions.

13 And that heightened your concerns about the  
14 appearance of a conflict of interest with the  
15 Department of Justice, which caused you to make what  
16 you have described as an incredibly painful decision  
17 to basically take the matter up yourself, and led to  
18 that July press conference.

19 MR. COMEY: Yes, sir. I can -- after the --  
20 President Clinton -- former President Clinton met on  
21 the plane with the attorney general, I considered  
22 whether I should call for the appointment of a

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1 special counsel, and had decided that that would be  
2 an unfair thing to do, because I knew there was no  
3 case there. We had investigated very, very  
4 thoroughly. I know this is a subject of passionate  
5 disagreement, but I knew there was no case there.  
6 And calling for the appointment of special counsel  
7 would be brutally unfair because it would send the  
8 message, a-ha, there's something here.

9 That was my judgment. Again, lots of people  
10 have different views of it. But that's how I  
11 thought about it.

12 SENATOR CORNYN: Well, if the special  
13 counsel had been appointed, they could've made that  
14 determination that there was nothing there and  
15 declined to pursue it, right?

16 MR. COMEY: Sure, but it would've been many  
17 months later, or a year later.

18 SENATOR CORNYN: Let me just ask you to --  
19 given the experience of the Clinton e-mail  
20 investigation and what happened there, do you think  
21 it's unreasonable for anyone, any President who has  
22 been assured on multiple occasions that he's not the

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1 subject of an FBI investigation, do you think it's  
2 unreasonable for them to want the FBI director to  
3 publicly announce that, so that this cloud over his  
4 Administration would be removed?

5 MR. COMEY: I think that's a reasonable  
6 point of view. The concern would be, obviously,  
7 because if that boomerang comes back, it's going to  
8 be a very big deal, because there will be a duty to  
9 correct.

10 SENATOR CORNYN: Well, we -- we saw that in  
11 the Clinton e-mail investigation, of course.

12 MR. COMEY: Yes, I recall that.

13 SENATOR CORNYN: I know you do.

14 So let me ask you, finally, in the minute  
15 that we have left, there was this conversation back  
16 and forth about loyalty, and I think we all  
17 appreciate the fact that an FBI director is a unique  
18 public official in the sense that he's not -- he's a  
19 political appointee in one sense, but he has a duty  
20 of independence to pursue the law pursuant to the --  
21 the constitutional laws of the United States.

22 And so when the President asked you about

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1 loyalty, you got in this back-and-forth about, well,  
2 I'll pledge you my honesty. And then it looks like,  
3 from what I've read, you agreed upon honest loyalty,  
4 or something like that.

5 Is that the characterization?

6 MR. COMEY: Yes.

7 SENATOR CORNYN: Thank you very much.

8 MR. COMEY: Thank you, sir.

9 CHAIRMAN BURR: Senator Reed.

10 SENATOR JACK REED (D-RI): Thank you,  
11 Mr. Chairman.

12 Thank you, Director Comey.

13 There have been press reports that the  
14 President, in addition to asking you to drop the  
15 Flynn investigation, has asked other senior  
16 intelligence officials to take steps which would  
17 tend to undermine the investigation into Russia.

18 There's been reports that he's asked DNI  
19 Coats and Admiral Rogers to make public statements  
20 exonerating him or -- or taking the pressure off  
21 him, and also reports about Admiral Rogers and  
22 Director Pompeo to intervene and reach out to the

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1 FBI and ask them.

2 Are you aware of any of these, or do you  
3 have any information with respect to any of these  
4 allegations?

5 MR. COMEY: I don't. I'm aware of the  
6 public reporting, but I had no contact, no  
7 conversation with any of those leaders about that  
8 subject.

9 SENATOR REED: Thank you.

10 You have testified that you interpret the  
11 discussion with the President about Flynn as a  
12 direction to stop the investigation; is that  
13 correct?

14 MR. COMEY: Yes.

15 SENATOR REED: You've testified that the  
16 President asked you to lift the cloud by essentially  
17 making public statement that exonerated him and  
18 perhaps others. You refused, correct?

19 MR. COMEY: I didn't -- I didn't do it. I  
20 didn't refuse the -- the President. I told him we  
21 would see what we could do, and then the second time  
22 he called, I told him, in substance, that's

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1 something your lawyer will have to take up with the  
2 Justice Department.

3 SENATOR REED: And part of the underlying  
4 logic was that we've -- we've discussed many times  
5 throughout this morning -- is the duty to correct.  
6 That is one of -- a theoretical issue, but also a  
7 very practical issue. It -- was there -- your  
8 feeling that the direction of the investigation  
9 could, in fact, include the President?

10 MR. COMEY: Well, in theory. I mean, as I  
11 explained, the concern of one of my senior leader  
12 colleagues was, if you're looking at potential  
13 coordination between the campaign and Russia, the  
14 person at the head of the campaign is the candidate.  
15 So, logically, this person argued, the -- the  
16 candidate's knowledge, understanding, will logically  
17 become a part of your inquiry, if it proceeds.

18 And so I understood that argument. My view  
19 was that -- that what I said to the President was  
20 accurate and fair, and fair to him. I resisted the  
21 idea of publicly saying it, although, if the Justice  
22 Department had wanted to, that -- I would've done



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1 it, because of the duty to correct and the slippery  
2 slope problem.

3 SENATOR REED: And, again, also, you've  
4 testified that the President asked you repeatedly to  
5 be loyal to him, and you responded you would be  
6 honestly loyal, which is, I think, your way of  
7 saying, "I'll be honest, and I'll be the head of the  
8 FBI and independent." Is that fair?

9 MR. COMEY: Correct. I tried "honest"  
10 first. And also, I mean, you see it in my  
11 testimony, also tried to explain to him why it's in  
12 his interest, and every President's interest, for  
13 the FBI to be apart, in a way, because its  
14 credibility is important to a President and to the  
15 country.

16 And so I tried to hold the line, hold the  
17 line. It got very awkward. And I then said,  
18 "You'll always have honesty from me." He said,  
19 "honest loyalty," and then I acceded to that as a  
20 way to end this awkwardness.

21 SENATOR REED: At the culmination of all  
22 these events, you're summarily fired, without any

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1 explanation or anything else.

2 MR. COMEY: Well, there was an explanation.  
3 I just don't buy it.

4 SENATOR REED: Well, yes.

5 So you're fired. So do you believe that you  
6 were fired because you -- you refused to -- to take  
7 the President's direction? Is that the ultimate  
8 reason?

9 MR. COMEY: I don't know for sure. I know I  
10 was fired -- again, I take the President's words. I  
11 know I was fired because of something about the way  
12 I was conducting the Russia investigation was, in  
13 some way, putting pressure on him, in some way,  
14 irritating him, and he decided to fire me because of  
15 that.

16 SENATOR REED: Now --

17 MR. COMEY: I -- I can't go farther than  
18 that.

19 SENATOR REED: The Russian investigation, as  
20 you've pointed out, and as all my colleagues have  
21 reflected, is one of the most serious hostile acts  
22 against this country in our history, undermining the

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1 very core of our democracy and our elections, is not  
2 a discrete event. It will likely occur, it's  
3 probably being prepared now for '18 and '20 and  
4 beyond. And yet the President of the United States  
5 fires you because, in your own words, some relation  
6 to this investigation.

7 And then he shows up in the Oval Office with  
8 the Russian foreign minister, first, after  
9 classifying you as crazy and a real nut job, which I  
10 think you've effectively disproved this morning. He  
11 said, "I face great pressure because of Russia.  
12 That's taken off."

13 Your conclusion would be that the President,  
14 I would think, is downplaying the seriousness of  
15 this threat, in fact, took specific steps to stop a  
16 thorough investigation of the Russian -- Russian  
17 influence, and, also, from what you've said, or what  
18 has been said this morning, doesn't seem  
19 particularly interested in these hostile threats by  
20 the Russians? Is that fair?

21 MR. COMEY: I don't know that I can agree to  
22 that level of detail. There's no doubt that it's a

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1 fair judgment -- it's my judgment, that I was fired  
2 because of the Russia investigation. I was fired,  
3 in some way to change -- or the endeavor was to  
4 change the way the Russia investigation was being  
5 conducted.

6 That is a -- that is a very big deal, and  
7 not just because it involves me. The nature of the  
8 FBI and the nature of its work requires that it not  
9 be the subject of political consideration. And on  
10 top of that you have the Russia investigation itself  
11 is vital, because of the threat. And I know I  
12 should've said this earlier, but it's obvious. If  
13 any Americans were part of helping the Russians do  
14 that to us, that is a very big deal. And I'm  
15 confident that if that is the case, Director Mueller  
16 will find that evidence.

17 SENATOR REED: Finally, the President  
18 tweeted that James Comey better hope that there are  
19 no tapes of our conversation before he starts  
20 leaking to the press. Was that a rather unsubtle  
21 attempt to intimidate you from testifying, and  
22 intimidate anyone else who seriously crosses his

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1 path, of not doing it?

2 MR. COMEY: I -- I'm not going to sit here  
3 and try and interpret the President's tweets. It --  
4 to me, its major impact was -- as I said, occurred  
5 to me in the middle of the night, holy cow, there  
6 might be tapes. And if there tapes, it's not just  
7 my word against his on -- on the direction to get  
8 rid of the Flynn investigation.

9 SENATOR REED: Thank you very much.

10 CHAIRMAN BURR: Senator McCain.

11 SENATOR JOHN McCAIN (R-AZ): In the case of  
12 Hillary Clinton, you made the statement that there  
13 wasn't sufficient evidence to bring a suit against  
14 her, although it had been very careless -- in their  
15 behavior. But you did reach a conclusion in that  
16 case that it was not necessary to further pursue  
17 her. Yet at the same time, in the case of Mr. Comey  
18 [sic.], you said that there was not enough  
19 information to make a conclusion.

20 Tell me the difference between your  
21 conclusion as far as former Secretary Clinton is  
22 concerned and -- and Mr. -- Mr. Trump.

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1 MR. COMEY: The Clinton investigation was a  
2 completed investigation that the FBI had been deeply  
3 involved in, and so I had an opportunity to  
4 understand all the facts and apply those facts  
5 against the law as I understood them. This  
6 investigation was underway, still going when I was  
7 fired. So it's nowhere near in the same place. At  
8 least it wasn't when I was --

9 SENATOR McCAIN: But it's still ongoing?

10 MR. COMEY: Correct. Insofar as I know. It  
11 was when I left.

12 SENATOR McCAIN: That investigation was  
13 going on. This investigation is going on. You  
14 reached separate conclusions.

15 MR. COMEY: No, that one was done. I --  
16 that --

17 SENATOR McCAIN: That investigation of any  
18 involvement of Secretary Clinton or any of her  
19 associates is completed?

20 MR. COMEY: Yes. As of July the 5th, the  
21 FBI completed its investigative work, and that's  
22 what I was announcing, what we had done and what we

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1 had found.

2 SENATOR McCAIN: Well, at least in the minds  
3 of this member, there's a whole lot of questions  
4 remaining about what went on, particularly  
5 considering the fact that, as you mention, it's a,  
6 quote, big deal, as to what went on during the  
7 campaign. So I'm glad you concluded that part of  
8 the investigation, but I -- I think that the  
9 American people have a whole lot of questions out  
10 there, particularly since you just emphasized the  
11 role that Russia played. And, obviously, she was a  
12 candidate for President at the time, so she was  
13 clearly involved in this whole situation where fake  
14 news, as you just described it, "big deal," took  
15 place.

16 And you're going to have to help me out  
17 here. In other words, we're complete -- the  
18 investigation of anything that former Secretary  
19 Clinton had to do with the campaign is over and we  
20 don't have to worry about it anymore?

21 MR. COMEY: With respect to Secretary -- I'm  
22 not -- I'm a little confused, Senator. With respect

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1 to Secretary Clinton --

2 SENATOR McCAIN: Yeah.

3 MR. COMEY: -- we investigated criminal  
4 investigation in connection with her use of a  
5 personal e-mail server --

6 SENATOR McCAIN: I understand.

7 MR. COMEY: -- and that's the investigation  
8 I announced the conclusion of on July 5th.

9 SENATOR McCAIN: So -- but at the same time  
10 you made the announcement there would be no charges  
11 brought against then Secretary Clinton for any  
12 activities involved in the Russia involvement in  
13 our -- engagement in our election.

14 I don't -- I don't quite understand how you  
15 could be done with that, but not complete -- done  
16 with the whole investigation of their attempt to  
17 affect the outcome of our election.

18 MR. COMEY: No. I'm sorry, we're not -- at  
19 least, when I left -- when I was fired on May the  
20 9th, there was still an open, active investigation  
21 to understand the Russian efforts and whether any  
22 Americans work with them.



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1           SENATOR McCAIN: But you reached the  
2 conclusion that there was no reason to bring charges  
3 again Secretary Clinton. So you reached a  
4 conclusion.

5           In the case of Mr. Comey, you -- President  
6 Comey [sic.] --

7           MR. COMEY: No, sir.

8           SENATOR McCAIN: -- I mean, excuse me, case  
9 of President Trump, you have an ongoing  
10 investigation.

11           So you got one candidate who you're done  
12 with and another candidate that you have a long way  
13 to go. Is that correct?

14           MR. COMEY: I don't know how far the -- the  
15 FBI has to go, but, yes, that -- the Clinton e-mail  
16 investigation was completed, the investigation of  
17 Russia's efforts in connection with the election,  
18 and whether there was any coordination, and, if so,  
19 with whom, between Russia and the campaign --

20           SENATOR McCAIN: You just made it -- you  
21 just made it --

22           MR. COMEY: -- was ongoing when I left.

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1           SENATOR McCAIN: You just made it clear in  
2 what you said, this is a, quote, big deal, unquote.

3           I think it's hard to reconcile, in one case  
4 you reach complete conclusion, and the other side,  
5 you have -- you have not, and you -- in fact,  
6 obviously, there's a lot more there, as we know, as  
7 you called it a, quote, big deal. She's one of the  
8 candidates. But in her case you say there will be  
9 no charges, and in the case of President Trump,  
10 there -- the -- the investigation continues.

11           What has been brought out in this hearing  
12 is, is more and more emphasis on the Russian  
13 engagement and involvement in this campaign. How  
14 serious do you think this was?

15           MR. COMEY: Very serious. But I want to say  
16 some -- be clear. It was -- we have not announced,  
17 and there was no predication to announce, an  
18 investigation of whether the Russians may have  
19 coordinated with Secretary Clinton's campaign.

20           Secretary Clinton's campaign --

21           SENATOR McCAIN: Oh, but they may not have  
22 been involved with her campaign, they were involved

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1 with the entire presidential campaign, obviously.

2 MR. COMEY: Of course. Yes, sir. And that  
3 is an investigation that began last summer, and, so  
4 far as I'm aware, continues.

5 SENATOR McCAIN: So both President Trump and  
6 former candidate Clinton are both involved in the  
7 investigation. Yet one of them, you said there's  
8 going to be no charges, and the other one, the  
9 investigation continues. Well, I think there's a  
10 double standard there, to tell you the truth.

11 Then, when the President said to you -- you  
12 talked about the April 11th phone call, and he said,  
13 quote, Because I've been very loyal to you, very  
14 loyal. We had that thing, you know.

15 Did that arouse your curiosity as what,  
16 quote, that thing, was?

17 MR. COMEY: Yes.

18 SENATOR McCAIN: Why didn't you ask him?

19 MR. COMEY: It didn't seem to me to be  
20 important for the conversation we were having, to  
21 understand it. I took it to be some -- an effort  
22 to -- to communicate to me this -- that there is a

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1 relationship between us where "I've been good to  
2 you, you should be good to me."

3 SENATOR McCAIN: Yeah, but I -- I think it  
4 would intensely arouse my curiosity if the President  
5 of the United States said, "We had that thing, you  
6 know." I'd like to know what the hell that thing  
7 is, particularly if I'm the director of the FBI.

8 MR. COMEY: Yeah, I -- I get that, Senator.  
9 Honestly, I'll tell you what, this is speculation,  
10 but what I concluded at the time is, in his memory,  
11 he was searching back to our encounter at the dinner  
12 and was preparing himself to say, "I offered loyalty  
13 to you, you promised loyalty to me," and all of a  
14 sudden, his memory showed him that did not happen,  
15 and I think he pulled up short.

16 That's just a guess, but I -- I -- a lot of  
17 conversations with humans over the years --

18 SENATOR McCAIN: I think I would have had  
19 some curiosity if it had been about me, to be honest  
20 with you.

21 So are you aware -- anything that would  
22 believe you to believe that the President or the

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1 members of the Administration or members of the  
2 campaign could potentially be used to coerce or  
3 blackmail the Administration?

4 MR. COMEY: That's a subject for  
5 investigations, not something I can comment on,  
6 sitting here.

7 SENATOR McCAIN: But you've reached that  
8 conclusion as far as Secretary Clinton was  
9 concerned, but you're not reaching a conclusion as  
10 far as this Administration is concerned. Are you  
11 aware of anything that would lead you to believe  
12 that information exists that could coerce members of  
13 the Administration or blackmail the Administration?

14 MR. COMEY: That's not a question I can  
15 answer, Senator.

16 CHAIRMAN BURR: Senator's time's expired.

17 SENATOR McCAIN: Thank you.

18 CHAIRMAN BURR: All time's expired for the  
19 hearing.

20 Can I say, for members, we'll reconvene  
21 promptly at 1:00 p.m. in the hearing room. We have  
22 a vote scheduled for 1:45. I would suggest that all

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1 members promptly be there at 1:00. We have about  
2 three minutes.

3 I'd like to have order. Photographers --  
4 photographers, return to where you were, please.  
5 This hearing's not adjourned yet. Either that, or  
6 we'll remove you.

7 To members, we have about three minutes of  
8 updates that we would love to cover as soon as we  
9 get into the closed session, before we have an  
10 opportunity to spend some time with Director Comey.

11 Based on our agreement, it would be my  
12 intentions to adjourn that closed hearing between  
13 2:00 and 2:10, so that members can go vote, and I  
14 would urge you to eat at that time.

15 Jim, several of us on this committee have  
16 had the opportunity to work with you since you  
17 walked in the door. I want to say, personally, on  
18 behalf of all this -- all the committee members,  
19 we're grateful to you for your service to your  
20 country, not just in the capacity as FBI director,  
21 but as prosecutor, and, more importantly, being  
22 somebody that loves this country enough to tell it

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1 like it is.

2 I want to say to your workforce that we're  
3 grateful to them, with the level of cooperation that  
4 they have shown us, with the trust we've built  
5 between both organizations, the Congress and -- and  
6 the bureau. We couldn't do our job if it wasn't for  
7 their willingness to share candidly with us the work  
8 that we need to see.

9 This hearing's the ninth public hearing this  
10 committee has had this year. That is twice the  
11 historical year-long average of this committee. I  
12 think the Vice Chairman and my's biggest challenge  
13 when this investigation has concluded is to return  
14 our hearings to the secrecy of a closed hearing, to  
15 encourage our members not to freely talk about  
16 intelligence matters publicly, and to respect the  
17 fact that we have a huge job.

18 And that's to represent the entire body of  
19 the United States Senate and the American people, to  
20 make sure that we work with the intelligence  
21 community to provide you the tools to keep America  
22 safe, and that you do it within the legal limit, or

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1 those limits that are set by the executive branch.

2 We could not do it if it wasn't for a  
3 trusted partnership that you have been able to lead,  
4 and others before you.

5 So as -- as we depart from this, this is a  
6 pivotal hearing in our investigation. We're  
7 grateful to you for the professionalism you've shown  
8 and your willingness.

9 I will turn to the Vice Chairman.

10 SENATOR WARNER: I simply want to echo, one,  
11 again, the thanks for your appearance. And there  
12 clearly still remain a number of questions. And the  
13 one thing I want to commit to you, and, more  
14 importantly, I think, Chairman, I want to commit to  
15 all those who are still potentially watching and  
16 following, there's still a lot of unanswered  
17 questions, and we're going to get to the bottom of  
18 this. We're going to get the facts out. The  
19 American people deserve to know.

20 There's the questions around implications of  
21 Trump officials and the Russians, but there's also  
22 the macro issue of what the Russians did and



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1 continue to do. And I think it is very important  
2 that all Americans realize that threat is real. It  
3 is continuous. It is not just towards our nation.  
4 It is all -- towards all Western democracies. And  
5 we have to come to a solution set.

6 Thank you, Mr. Chairman.

7 CHAIRMAN BURR: Director Comey, thank you  
8 once again on behalf on the committee.

9 This hearing's adjourned.

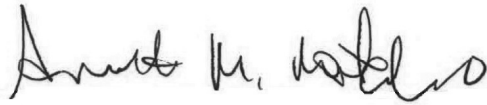
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## 1 CERTIFICATE OF TRANSCRIBER

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3 I, Annette M. Montalvo, do hereby certify  
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14 Annette M. Montalvo, CSR, RDR, CRR  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

CABLE NEWS NETWORK, INC.	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 17-01167 (JEB)
	)	
FEDERAL BUREAU OF	)	
INVESTIGATION,	)	
	)	
Defendant.	)	
_____	)	
	)	
GANNETT SATELLITE INFORMATION	)	
NETWORK, LLC, <i>et al.</i> ,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 17-01175 (JEB)
	)	
DEPARTMENT OF JUSTICE,	)	
	)	
Defendant.	)	
_____	)	
	)	
JUDICIAL WATCH, INC.,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 17-01189 (JEB)
v.	)	
	)	
U.S. DEPARTMENT OF JUSTICE,	)	
	)	
Defendant.	)	
_____	)	

FREEDOM WATCH, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 17-1212 (JEB)
	)	
U.S. DEPARTMENT OF JUSTICE,	)	
	)	
Defendant.	)	
_____	)	
	)	
THE DAILY CALLER NEWS	)	
FOUNDATION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 17-1830 (JEB)
	)	
U.S. DEPARTMENT OF JUSTICE,	)	
	)	
Defendant.	)	
_____	)	

**[PROPOSED] ORDER**

Upon consideration of Defendants’ motion for summary judgment, Plaintiff Judicial Watch, Inc.’s cross-motion, the oppositions and replies thereto, and the entire record herein, it is hereby ORDERED that:

1. Defendants’ motion for summary judgment is DENIED;
2. Plaintiff Judicial Watch, Inc.’s cross-motion for summary judgment is GRANTED; and
3. Defendant U.S. Department of Justice shall promptly produce to Plaintiff Judicial Watch, Inc. the February 14, 2017 memorandum requested by Judicial Watch, Inc. in its May 16, 2017 Freedom of Information Act request.

Dated:

\_\_\_\_\_  
The Hon. James E. Boasberg  
United States District Judge