

“WHAT DID THE PRESIDENT DO AND WHAT DO HIS LAWYERS CLAIM HE WAS THINKING?”

Ever since Richard Nixon, the big question one asks of presidential involvement in scandals is about the cover-up: “what did the president know and when did he know it?” Not so Trump in the investigation into his campaign’s conspiracy with Russia.

Robert Mueller’s prosecutors are already asking about the president’s *actions*: “What did the president *do* and what was he thinking when he did it?” WaPo describes the Trump team’s effort to dodge such questions by offering a summary of what his lawyers claim he did and was thinking.

The written materials provided to Mueller’s office include summaries of internal White House memos and contemporaneous correspondence about events Mueller is investigating, including the ousters of national security adviser Michael Flynn and FBI Director James B. Comey. The documents describe the White House players involved and the president’s actions.

Special counsel investigators have told Trump’s lawyers that their main questions about the president fall into two simple categories, the two people said: “What did he do?” and “What was he thinking when he did it?”

Trump’s lawyers expect Mueller’s team to ask whether Trump knew about Flynn’s communications with Russian Ambassador Sergey Kislyak during the presidential transition, for example, and what instructions, if any, the president gave

Flynn about the contact, according to two advisers.

Trump said in February that he fired Flynn because he had misled Vice President Pence about his contact with Kislyak. He said he fired Comey because he had mishandled an investigation of Democratic presidential candidate Hillary Clinton.

CNN's version of the same story seems to suggest such a summary is something they've already done, that what was new about last week was a sit-down with Watergate lawyer James Quarles.

As President Donald Trump's reaction to special counsel Robert Mueller grows more irate by the day, attorneys on both sides sat down last week in a rare face-to-face discussion about the topics investigators could inquire of the President. It was the first in-person meeting after several weeks of informal discussions between the two sides, according to two sources familiar with the talks.

Mueller's team added granularity to the topics it originally discussed with the defense team months ago, like the firing of FBI Director James Comey, according to one of the sources.

[snip]

The President's attorneys sent the special counsel a summary of evidence they had turned over to prosecutors already, a practice they've followed multiple times throughout the investigation. Mueller himself didn't attend the meeting. But prosecutors including former Watergate prosecutor James Quarles III gave Trump's lawyers enough detail that the President's team wrote a memo with possible questions they expect to be asked of him.

In addition to Trump's involvement in directing Mike Flynn to ask Sergey Kislyak to defer any response to the new sanctions imposed in December 2016, CNN says that Jeff Sessions' involvement in firing Comey is also on the list of questions they have for the president.

This time around, for instance, the prosecutors said they would ask about Attorney General Jeff Sessions' involvement in the Comey dismissal and what Trump knew about national security adviser Michael Flynn's phone calls with then-Russian Ambassador Sergey Kislyak in late December 2016.

[snip]

CNN reported in January that Mueller's team had given the President's lawyers general topics for an interview, such as Trump's request that Comey drop the investigation into Flynn, his reaction to Comey's May 2017 testimony on Capitol Hill, and Trump's contact with intelligence officials about the Russia investigation.

A source familiar with the talks said more recent discussions about Trump's interview also touched on Sessions and Flynn. Sessions previously spoke to Mueller's team while investigators looked into possible obstruction of justice. And during the transition, Flynn had spoken to Kislyak about sanctions and the United Nations, then lied to investigators about the calls before Trump fired him. Flynn pleaded guilty to lying to investigators and agreed to cooperate with Mueller in December.

The questions about Sessions and Flynn are both interesting because of recent events.

First, CNN's story reporting an interest in Sessions' role in Comey's firing came out after

the report that Sessions and the president traveled separately yesterday to the opioid event they appeared at together. I found that odd at first – Trump should be happy that Sessions fired Andy McCabe for him last Friday. Perhaps Trump is mad that by firing McCabe, Sessions and Rod Rosenstein have taken one excuse he could use to fire both of them off the table. Or perhaps Sessions has realized that he needs to avoid talking to Trump about his own conversations with prosecutors. But if Sessions has become a witness against Trump and the discussions last week made that clear, then it puts the president in a particularly exquisite bind, because the Senate would not take kindly if Trump fired one of their own after he went to such lengths to fire McCabe.

The separate flight is all the more interesting given the news that three witnesses have testified that Sessions was actually more supportive of Trump's outreach to Russia than he himself (and JD Gordon) has claimed.

And given Mueller's apparent efforts to confirm what has long been obvious – that KT McFarland was relaying Trump's orders to Flynn on what to say to Kislyak back in December 2016, consider Mike Flynn's odd campaign appearance last Friday. Amid stories that he's beginning to rebuild his life, Flynn started a campaign speech for a right wing nut job attempting to unseat Maxine Waters by alluding to his unfair treatment in an unfair process.

"I'm not here to complain about who has done me wrong or how unfair I've been treated or how unfair the entire process has been," Flynn said to a small audience, which laughed at his remark, though Flynn did not.

Flynn then went on to reflect his role in getting Trump elected.

"All of us are imperfect," he said.
"Heck, I used to introduce ... Trump

during our various campaign stops as an imperfect candidate. I mean, clearly, he's not a traditional politician. But his 'Make America Great Again' philosophy energized the country enough to get him overwhelmingly elected."

"Whether we like it or not, that's what happened," Flynn added.

Particularly given the others who've endorsed Omar Navarro, like Roger Stone and Alex Jones, you'd think this was all a dig at Mueller, and it may well be. Except that Jared Kushner had an opportunity to exonerate Flynn last fall; his failure to do so is what led Flynn to flip, leading to these questions about whether Trump ordered Flynn to ask the Russians to delay their response to sanctions.

Now, any confirmation that the president ordered Flynn to ask Kislyak to delay his response on one level makes Flynn's effort less damning: it's one thing for an incoming National Security Advisor to freelance in trying to undermine the incumbent's policies. It's another thing for the incoming president to do so.

But contrary to the obstruction narrative that every fool has been repeating, Mueller is not just interested in how and why Jim Comey got fired. He's also interested in why Trump fired Flynn. That question becomes more pressing if the president ordered Flynn to chat up Kislyak, and if the president ordered Flynn to lie to hide what he had done (leading to his lie to the FBI). Why not just admit that that was incoming policy? Why not just admit to the FBI that Flynn was acting on Trump's orders? Instead of doing that, Flynn lied and Trump tried instead to thwart the investigation into Flynn, up to and including firing Comey.

Why fire Comey just before the meeting with the Russians and then brag about it to them?

For months, credulous journalists have been distinguishing between the president's presumed

obstruction and the substantive conspiracy others were being accused of, as if no Trump flunkies were involved in the cover-up and Trump was walled off from the conspiracy. But that distinction has never held up, especially not given the interest in why Trump fired Flynn.

"What did the president do and what the fuck was he thinking when he did it?" are questions not about the cover-up, but about the substantive crime.

And that's the question Mueller's Watergate prosecutor has now posed to the president's lawyers.