

# JAMES BAKER CHANNELS A ROAD MAP HE AND COMEY AND ANDREW MCCABE MIGHT NAVIGATE

Some weeks ago, I used Leon Jaworski's Road Map to imagine what an equivalent Robert Mueller Road Map, packaging grand jury information to share with the House Judiciary Committee, might look like.

Among other things I showed the close parallel between John Dean's attempt to craft a cover story and Don McGahn's attempts to do the same. That section included how Nixon worked Henry Petersen, then Assistant Attorney General for Criminal Division, to try to influence the investigation.

After substantiating what would have been the indictment against Nixon, the Watergate Road Map showed how Nixon had John Dean and others manufacture a false exonerating story. The Road Map cited things like:

- *Nixon's public claims to have total confidence in John Dean*
- *Nixon's efforts to falsely claim to the Attorney General, Richard Kleindienst, that former AG John Mitchell might be the most culpable person among Nixon's close aides*
- *Nixon's instructions to*

*his top domestic political advisor, John Ehrlichman, to get involved in John Dean's attempts to create an exculpatory story*

- *Press Secretary Ron Ziegler's public lies that no one knew about the crime*
- *Nixon's efforts to learn about what prosecutors had obtained from his close aides*
- *Nixon's private comments to his White House Counsel to try to explain away an incriminating comment*
- *Nixon's ongoing conversations with his White House Counsel about what he should say publicly to avoid admitting to the crime*
- ***Nixon's multiple conversations with top DOJ official Henry Petersen, including his request that Petersen not investigate some crimes implicating the Plumbers***
- *Nixon's orders to his Chief of Staff, HR Haldeman, to research*

*the evidence  
implicating himself in  
a crime*

This is an area where there are multiple almost exact parallels with the investigation into Trump, particularly in Don McGahn's assistance to the President to provide **bogus explanations for both the Mike Flynn and Jim Comey firings** – the former of which involved Press Secretary Sean Spicer and Chief of Staff Reince Priebus, the latter of which involved Trump's top domestic political advisor Stephen Miller. **There are also obvious parallels between the Petersen comments and the Comey ones.** Finally, Trump has made great efforts to learn via Devin Nunes and other House allies what DOJ has investigated, including specifically regarding the Flynn firing.

One key point about all this: the parallels here are almost uncanny. But so is the larger structural point. These details did not make the draft Nixon indictment. There were just additional proof of his cover-up and abuse of power. The scope of what HJC might investigate regarding presidential abuse is actually *broader* than what might be charged in an indictment.

The equivalent details in the Mueller investigation – particularly the Comey firing – have gotten the bulk of the press coverage (and at one point formed a plurality of the questions Jay Sekulow imagined Mueller might ask). But the obstruction was never what the case in chief is, the obstruction started when Trump found firing Flynn to be preferable to explaining why he instructed Flynn, on December 29, to tell the Russians not to worry about Obama's sanctions. In the case of the

Russia investigation, there has yet to be an adequate public explanation for Flynn's firing, and the Trump team's efforts to do so continue to hint at the real exposure the President faces on conspiracy charges. [my emphasis]

Another section showed how Nixon was commenting on what he had said to Petersen and Attorney General Kleindienst was like Trump's comments on Jim Comey and other DOJ officials.

That was all written from the outside.

Today, former FBI General Counsel James Baker performs the same task. He doesn't describe the effort as such. Rather, he just says he finds certain things – particularly those having to do with Henry Petersen – attracted his (and Sarah Grant's, with whom he wrote this) attention.

One of the aspects of the recently released Watergate "road map" and related documents that attracted our attention is the set of materials pertaining to interactions, direct and indirect, between President Richard M. Nixon and two senior Department of Justice officials.

The whole post starts with a description of how Petersen told Nixon that Haldeman and Ehrlichman were implicated in the break-in and advised him to fire them, only to have the President respond that he would not.

One of the officials later testified: "He said he couldn't believe it. You know, just these are fine upstanding guys. Just couldn't be, you know." He impressed on the president, "We are here to alert you. We think we've got something. We could be wrong, but we are telling you it's time for you to move to protect yourself and the presidency." And he urged the president to "get rid"

of the staffers in question; the president responded, “‘Yeah, and I don’t think I should. I’ve got to think about this and that and a thousand other things.’”

The parallel here, of course, is Mike Flynn, whom Sally Yates recommended Trump fire, but whom Trump kept on for almost two weeks because he had ordered him to engage in the suspect behavior in question.

The post goes on to describe how Nixon got that top DOJ figure to provide information on a DOJ investigation investigating him personally.

In addition, on two occasions President Nixon asked Petersen for written summaries of aspects of the Justice Department’s investigation, including information regarding Haldeman and Ehrlichman: “[H]e asked for a full exposition. Having got into it this far, he felt he needed all the information, and I said I would undertake to . . . try to do that.” The president asked Petersen “to be kept informed of these things” but did not expect Petersen to divulge grand jury material. Petersen said that he ultimately determined that he could not provide any additional information at that time because it would have involved disclosing grand jury material; the president accepted that conclusion. In the following two weeks, however, Petersen did provide the president with “very general” information about the investigation, and the president on one occasion asked him, “‘Well, what else is new?’”

According to the president’s logs, between March 13, 1973, and April 30, 1973, President Nixon had seven meetings and initiated 19 phone calls with Petersen. These calls included four on April 15, 1973, after Kleindienst and

Petersen met with the president to recommend that he fire Haldeman and Ehrlichman, including one call from 11:45 p.m. to 11:53 p.m. It is difficult to recount concisely the details of all of these communications to the extent that they are reflected in the information that we reviewed. Suffice it to say that these communications and other information in the attachments to the road map indicate that the Justice Department provided the White House with certain information about the course of the investigation on an ongoing basis.

The president, in short, was using a senior Justice Department official to gather intelligence about an ongoing criminal investigation in which he was personally implicated.

The post also explains how Nixon tried to influence Petersen to speed up the investigation and by offering promotions.

On at least one occasion, President Nixon commented to Petersen on the pace of the investigation.

Petersen testified: "Well, there was some discussion about the need for, you know—'Hurry up and get this over with.' 'Yes. We'll make haste as reasonably as we can.'"

President Nixon also discussed Petersen's future role with him, as they concurrently discussed a live investigative matter.

Petersen testified: "there were statements, during the course of the President's conversations with me, 'Now, you'll have to serve as White House counsel,' or, 'You're the adviser to the President now,' which I, frankly, thought was a little heavy handed."

It lays out how Nixon asked the top DOJ official whether he, personally, was under investigation.

Similarly, the Watergate Task Force report referenced above states that on April 27, 1973, "the President asked Petersen if he had any information implicating the President himself. Petersen said he did not." The president, in other words, was asking the head of the Criminal Division whether he was personally under investigation.

And then it shows how HJC included such abuses in its articles of impeachment.

How was all of this presidential contact with the Justice Department understood in the context of Watergate? Pretty harshly. For example, Article II, paragraph 5, of the House Judiciary Committee's July 27, 1974, Articles of Impeachment states in part that President Nixon:

In disregard of the rule of law, . . . knowingly misused the executive power by interfering with agencies of the executive branch, including the Federal Bureau of Investigation, the Criminal Division, and the Office of Watergate Special Prosecution Force, of the Department of Justice, and the Central Intelligence Agency, in violation of his duty to take care that the laws be faithfully executed.

President Nixon resigned on Aug. 9, 1974, and was pardoned by President Gerald Ford on Sept. 8, 1974.

As I noted in the post where I drew these

parallels, we're not in 1974 anymore, and there are a lot of reasons to doubt Trump will be impeached for acting in a similar manner as Nixon did.

But James Baker definitely seems to think the parallels are there.