

TRUMP CLAIMED TO BE ANGRY FLYNN DIDN'T MAKE GOOD ON PUTIN'S JANUARY 21 REQUESTED PHONE CALL

As I noted, newly unsealed parts of Mike Flynn's January 24, 2017 302 make it clear that he explained away his calls with Sergey Kislyak on December 29, 2016, in part, by claiming that Kislyak asked Flynn to set up a videoconference between Trump and Putin on January 21, 2017, the day after Trump would be inaugurated.

During the call, KISLYAK asked FLYNN to set-up a VTC between President-elect TRUMP and Russian President PUTIN on January 21st.

[snip]

The interviewing agents asked FLYNN if he recalled any []ation with KISLYAK surrounding the expulsion of Russian diplomats or closing of Russian properties in response to Russian hacking activities surrounding the election. FLYNN stated that he did not. FLYNN reiterated his conversation was about the PUTIN/TRUMP VTC...

That's damning enough: Putin wanted to capitalize on his investment right away.

But it's still more damning given a detail from the Comey memos. During the January 27, 2017 dinner that Trump invited Comey to that same day to demand loyalty, Trump suggested he believed Flynn was unreliable. The basis for that unreliability is that Flynn didn't tell Trump that Putin – and not Theresa May – was the first foreign leader to give him a congratulatory call after the inauguration.

He then went on to explain that he has serious reservations about Mike Flynn's judgement and illustrated with a story from that day in which the President apparently discovered during his toast to Teresa May that [Putin] had called four days ago. Apparently, as the President was toasting PM May, he was explaining that she had been the first to call him after his inauguration and Flynn interrupted to say that [Putin] had called (first, apparently). It was then that the President learned of [Putin's call] and he confronted Flynn about it (not clear whether that was in the moment or after the lunch with PM May). Flynn said the return call was scheduled for Saturday, which prompted a heated reply from the President that six days was not an appropriate period of time to return a call from the [President] of a country like [Russia]. This isn't [redacted] we are talking about.") He said that if he called [redacted] and didn't get a return call for six days he would be very upset. In telling the story, the President pointed his fingers at his head and said "the guy has serious judgment issues."

This was, remember, the day that Don McGahn and Sally Yates had their second conversation about the FBI investigation into Flynn for lying about his December 29, 2016 conversation with Kislyak. I've had mixed opinions about this passage, originally thinking it was an attempt to distance himself from Flynn, but later noting that it fit the (largely chronologically undated) observations by Trump aides that Trump really was fed up by Flynn by the time he was forced to resign.

Here's the thing, though. At least according to the White House record of Trump's toast to May, the claim is a lie. That's because Trump never claimed that May was the first to *call* Trump

after his inauguration. Rather, he applauded her because she was the first to *visit* Trump after inauguration.

Thank you very much. I am honored to have Prime Minister Theresa May here for our first official visit from a foreign leader. This is our first visit, so – great honor.

It is true that May called Trump sometime on January 21.

It's also true that in the first question after their comments on January 27, Trump was asked about the phone call with Putin the following day (and he feigned uncertainty whether it would happen).

STEVE HOLLAND, REUTERS: Thank you. You're going to be speaking tomorrow with the Russian president. What message would you like to convey to him? How close are you to lifting some of the sanctions imposed on Russia over its Ukraine incursion? What would you expect in return?

And Prime Minister May, do you foresee any changes in British attitudes towards sanctions on Russia?

TRUMP: Well, I hear a call was set up, Steve, and we'll see what happens. As far as the sanctions, very early to be talking about that. But we look to have a great relationship with all countries, ideally. That won't necessarily happen, unfortunately probably won't happen with many countries.

But if we can have, as we do with Prime Minister May and the relationship that we've all developed and even in the short relationship that we just developed just by being with each other and have lunch and – we've really had some very interesting talks and very

productive talks. But if we can have a great relationship with Russia and with China and with all countries, I'm all for that. That would be a tremendous asset.

If nothing else, it means Trump knew of the call before lunch, which was scheduled *after* the press conference, so could not have been surprised to learn of call timing by then.

But now consider the comment after considering that Trump had at least one conversation with Don McGahn about the substance of Flynn's lies before this meeting, and – given McGahn's request to have the underlying materials – may have asked to know specifically what Flynn said.

On January 26, 2017, Acting Attorney General Sally Yates contacted White House Counsel Donald McGahn and informed him that she needed to discuss a sensitive matter with him in person. 142 Later that day, Yates and Mary McCord, a senior national security official at the Department of Justice, met at the White House with McGahn and White House Counsel's Office attorney James Burnham. 143 Yates said that the public statements made by the Vice President denying that Flynn and Kislyak discussed sanctions were not true and put Flynn in a potentially compromised position because the Russians would know he had lied. 144 Yates disclosed that Flynn had been interviewed by the FBI. 145 She declined to answer a specific question about how Flynn had performed during that interview, 146 but she indicated that Flynn's statements to the FBI were similar to the statements he had made to Pence and Spicer denying that he had discussed sanctions. 147 McGahn came away from the meeting with the impression that the FBI had not pinned Flynn down in lies, 148 but he asked John Eisenberg, who served as legal advisor

to the National Security Council, to examine potential legal issues raised by Flynn's FBI interview and his contacts with Kislyak. 149

That afternoon, McGahn notified the President that Yates had come to the White House to discuss concerns about Flynn.¹⁵⁰ McGahn described what Yates had told him, and the President asked him to repeat it, so he did. ¹⁵¹ McGahn recalled that when he described the FBI interview of Flynn, he said that Flynn did not disclose having discussed sanctions with Kislyak, but that there may not have been a clear violation of 18 U.S.C. § 1001. ¹⁵² The President asked about Section 1001, and McGahn explained the law to him, and also explained the Logan Act. ¹⁵³ The President instructed McGahn to work with Priebus and Bannon to look into the matter further and directed that they not discuss it with any other officials. ¹⁵⁴ Priebus recalled that the President was angry with Flynn in light of what Yates had told the White House and said, "not again, this guy, this stuff." I 55

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The next day, January 27, 2017, McGahn and Eisenberg discussed the results of Eisenberg's initial legal research into Flynn's conduct, and specifically whether Flynn may have violated the Espionage Act, the Logan Act, or 18 U.S.C. § 1001. ¹⁶⁰ Based on his preliminary research, Eisenberg informed McGahn that there was a possibility that Flynn had violated 18 U.S.C. § 1001 and the Logan Act. ¹⁶¹ Eisenberg noted that the United States had never successfully prosecuted an individual under the Logan Act and that Flynn could have possible defenses, and told McGahn that he believed it was unlikely that a

prosecutor would pursue a Logan Act charge under the circumstances. 162

That same morning, McGahn asked Yates to return to the White House to discuss Flynn again. 163 In that second meeting, McGahn expressed doubts that the Department of Justice would bring a Logan Act prosecution against Flynn, but stated that the White House did not want to take action that would interfere with an ongoing FBI investigation of Flynn. 164 Yates responded that Department of Justice had notified the White House so that it could take action in response to the information provided. 165 McGahn ended the meeting by asking Yates for access to the underlying information the Department of Justice possessed pertaining to Flynn's discussions with Kislyak. 166

In other words, by the time Trump claimed to the FBI Director that he didn't know Putin called him on January 21, he already knew that the FBI had interviewed Flynn about a conversation where (he claimed) Kislyak had asked to set up a call on January 21, and he may have had more specificity about whether or not the request for a January 21 call came up.

We can't tell, given the kind of liars we're dealing with, what is true. These are some of the possibilities:

- Kislyak never asked for a January 21 meeting but Flynn used the actual call on January 21 as an excuse
- In response to Kislyak's request, Flynn did set up the meeting, but Trump was trying to claim he didn't listen in that day

- Kislyak asked for a January 21 meeting and Putin did call, but Flynn somehow intercepted the call and kept it a secret from the President

Whichever it is, the centrality of setting up a January 21 call with Putin – as opposed to the January 28 call we already knew about – really raises the import of Trump’s claimed reason to be pissed at Flynn in a meeting where he was already thinking about how to end an investigation into his ties with Russia.

As I disclosed last July, I provided information to the FBI on issues related to the Mueller investigation, so I’m going to include disclosure statements on Mueller investigation posts from here on out. I will include the disclosure whether or not the stuff I shared with the FBI pertains to the subject of the post.