

HOPE HICKS HAD MORE AWARENESS OF THE FLYNN-KISLYAK AFTERMATH THAN THE MUELLER REPORT DISCLOSES

As I noted in this post, even though the reporting on Hope Hicks' testimony last week focused on the White House's efforts to prevent her from fully testifying, she clearly did what she could to protect Trump even regarding his actions during the election and transition.

Which is why I want to look at two of her comments on matters more central to Mueller's investigation – in this post, her elaboration of some comments she made about Mike Flynn.

Norm Eisen walked Hicks through something that shows up in this footnote of the Mueller Report:

Several witnesses said that the President was unhappy with Flynn for other reasons at this time. Bannon said that Flynn's standing with the President was not good by December 2016. Bannon 2/12/18 302, at 12. The President-Elect had concerns because President Obama had warned him about Flynn shortly after the election. Bannon 2/12/18 302, at 4-5; Hicks 12/8/17 302, at 7 (President Obama's comment sat with President-Elect Trump more than Hicks expected). Priebus said that the President had become unhappy with Flynn even before the story of his calls with Kislyak broke and had become so upset with Flynn that he would not look at him during intelligence briefings. Priebus 1/18/18 302, at 8. Hicks said that the President thought Flynn had bad judgment and was angered by tweets sent by Flynn and his son, and

she described Flynn as “being on thin ice” by early February 2017. Hicks 12/8/17 302, at 7, 10.

As I pointed out earlier, Eisen was hired to make sure questioning of witnesses is conducted professionally. It’s also worth noting that some House Judiciary Committee members and staffers have seen backup documents on the Mueller Report and the Hicks’ 302s were among the documents requested; both of these exchanges seem to reflect non-public information.

Eisen has Hicks describe how, even before the FBI interviewed Flynn, Trump had some concerns about him. At first, Hicks tries to spin Trump’s response to President Obama’s counterintelligence warning about Flynn as a reaction about the importance Obama assigned the warning, rather than anything having to do with Flynn himself.

Q Okay. Who was Michael Flynn?

A Michael Flynn was somebody that supported Mr. Trump. He was at one point in time considered a possible Vice Presidential candidate. And he became somebody who frequently traveled with the candidate and introduced him at rallies.

Q And are you aware that President Obama made comments about Mr. Flynn to the –

A Yes.

Q – the President-elect?

A Yes.

Q And how did the President-elect receive those comments?

Mr. Purpura. You can answer.

Ms. Hicks. I think he was a bit bewildered that, you know, of all the things that the two of them could have been discussing, that that was something

that came up.

Mr. Eisen. And did you feel that President Obama's comments sat with the President-elect more than you expected?

Ms. Hicks. I did, yes.

Mr. Eisen. Can you – go ahead. Sorry. I cut you off.

Ms. Hicks. That's okay. I feel like it maybe tainted his view of General Flynn just a little bit.

Mr. Eisen. Did there come a time when the President formed the opinion – during the transition; I'm asking now about the transition – that Flynn had bad judgment?

White House lawyer Pat Philbin interrupts here to invite Hicks to read the footnote. (Note, I find it weird that Philbin did this, and not Hicks' attorney Robert Trout.)

Mr. Philbin. Could you give us a moment there?

[Discussion off the record.]

Mr. Eisen. Can you read the question back, please? Okay. I've asked the court reporter to read the question back. [The reporter read back the record as requested.]

Ms. Hicks. Yes.

Mr. Eisen. Tell me about that.

Having just reviewed the footnote, Hicks nevertheless tries to minimize Trump's concerns. So Philbin asks her to read the footnote again, which leads her to blame all this on Flynn's spawn setting off a media frenzy that came to incorporate Flynn himself.

Ms. Hicks. I don't think this was an overall characterization. I think that

this was something where he felt like there were a few things that maybe caused him to think that he was capable of being a person who exercised bad judgment.

Mr. Eisen. What were those things?

Mr. Philbin. I'm sorry. Can I again suggest that, since the question seemed to be based on footnote 155, page 32, Ms. Hicks have a chance to review that footnote?

Ms. Hicks. Yeah. I mean, primarily the comment by President Obama and the incident with General Flynn's son concerning a fake news story and some of the tweets that were posted surrounding that.

BY MR. EISEN: Q Posted by?

A I believe they were posted by his son, and then it led to reporters also looking back at tweets that General Flynn had posted.

From here, Eisen moves on to the response to David Ignatius' revelation that the Obama Administration had identified Flynn's calls with Sergei Kislyak. He establishes that Hicks was on the email thread discussing the response, though she claims she wasn't involved in the messaging surrounding it.

Q Do you recall David Ignatius writing a column about a Michael Flynn phone conversation with the Russian Ambassador during the transition?

A Yes.

Q And what do you remember about that?

A I don't remember much about the substance of the column, to be honest, but I remember several email exchanges between the National Security Advisor,

General Flynn at the time, and some of his national security staffers, a desire to perhaps have David Ignatius clarify some things in that column, and a failure to do so.

Q Were you involved in the clarification efforts?

A I was on the email thread, so I was following the discussion that ensued, but I was not involved in any kind of message development or outreach to Mr. Ignatius.

Note that the Mueller Report does not mention Hicks at all in its discussion of the Flynn-Kislyak response. In addition to KT McFarland (who called Ignatius to push back), it cites just Reince Priebus and Stephen Miller.

On January 12, 2017, a Washington Post columnist reported that Flynn and Kislyak communicated on the day the Obama Administration announced the Russia sanctions.¹²² The column questioned whether Flynn had said something to “undercut the U.S. sanctions” and whether Flynn’s communications had violated the letter or spirit of the Logan Act.¹²³

President-Elect Trump called Priebus after the story was published and expressed anger about it.¹²⁴ Priebus recalled that the President-Elect asked, “What the hell is this all about?”¹²⁵ Priebus called Flynn and told him that the President-Elect was angry about the reporting on Flynn’s conversations with Kislyak.¹²⁶ Flynn recalled that he felt a lot of pressure because Priebus had spoken to the “boss” and said Flynn needed to “kill the story.”¹²⁷ Flynn directed McFarland to call the Washington Post columnist and inform him that no discussion of sanctions had

occurred. 128 McFarland recalled that Flynn said words to the effect of, "I want to kill the story." 129 McFarland made the call as Flynn had requested although she knew she was providing false information, and the Washington Post updated the column to reflect that a "Trump official" had denied that Flynn and Kislyak discussed sanctions. 130

When Priebus and other incoming Administration officials questioned Flynn internally about the Washington Post column, Flynn maintained that he had not discussed sanctions with Kislyak.131 Flynn repeated that claim to Vice President-Elect Michael Pence and to incoming press secretary Sean Spicer. 132 In subsequent media interviews in mid-January, Pence, Priebus, and Spicer denied that Flynn and Kislyak had discussed sanctions, basing those denials on their conversations with Flynn. 133

13 1 Flynn 11117/17 302, at I, 8; Flynn 1/19/18 302, at 7; Priebus 10/13/17 302, at 7-8; S. Miller 8/3 I /17 3 02, at 8-1 I.

And that's interesting because – as Eisen goes on to establish – Hope Hicks learned about the Flynn-Kislyak call at a minimum just days afterwards and (per her initial response) possibly the day it was made.

Q Did you have any advance knowledge of a phone call between Mr. Flynn and the Russian Ambassador that was the subject of this Ignatius reporting?

A I believe I was aware of it the day that it took place. I don't know if it was before or after. But I recall being at Mar-a-Lago, and Flynn, I think – sorry. Off the record.

[Discussion off the record.]

Ms. Hicks. I think it was afterwards.
Perhaps even several days afterwards.

Again, the Mueller Report describes a conversation Flynn had with Steve Bannon in the aftermath of the call, but not Hicks. The Report also mentions a discussion between Flynn and Trump, but Flynn doesn't "have a specific recollection" of telling Trump about the call.

Flynn recalled discussing the sanctions issue with incoming Administration official Stephen Bannon the next day. 10° Flynn said that Bannon appeared to know about Flynn's conversations with Kislyak, and he and Bannon agreed that they had "stopped the train on Russia's response" to the sanctions. 101 On January 3, 2017, Flynn saw the President-Elect in person and thought they discussed the Russian reaction to the sanctions, but Flynn did not have a specific recollection of telling the President-Elect about the substance of his calls with Kislyak. 102

And that's important because, even before Eisen started pursuing these questions, Congressman Steve Cohen had gotten Hicks to admit (after first denying it) that she had knowledge of Russian sanctions that apparently included Trump.

Mr. Cohen. All right. So with all those caveats, before January 20, 2017, did you have any knowledge of any discussions of Russian sanctions?

Ms. Hicks. No.

Mr. Cohen. There was no **discussions at all with Mr. Trump and you weren't privy to them** about Russian sanctions that we had issued? You're sure of that? Think about it.

Ms. Hicks. I am thinking. Thank you. You know, there was – there was a phone call obviously between General Flynn and the Russian ambassador. There was news reports after that where it was unclear what was discussed, but that would have been the only context in which Russian sanctions were brought up in my capacity as communications adviser. [my emphasis]

When Eisen followed up about when Hicks learned that Flynn had lied about sanctions, Hicks claimed to have no recollection of learning that during the transition.

Mr. Eisen. When did you first learn that there was an issue about – if you learned – actually, let me rephrase that question. Did Mr. Flynn talk to you after the column was published about the column?

Mr. Philbin. And we're still asking –

Mr. Eisen. We're asking transition. We're about to come to the post-transition period.

Ms. Hicks. I don't recall any direct conversations with him, only the email thread that I described.

Mr. Eisen. During the transition, did you develop any additional information about the truth or falsity of anything in the Ignatius column?

Ms. Hicks. Not to my recollection.

Predictably, when Eisen asks about how Hicks came to learn more about this after the Transition, Philbin objected.

Mr. Eisen. What about after the transition?

Mr. Philbin. Objection.

Let me be clear: even with this questioning, the record on what Hicks knew when is inconclusive (and she appears to want to keep it that way). Which may be one reason why Hicks doesn't appear in any of the discussions in the Mueller Report about this incident, because even Mueller doesn't find her answers completely credible. As far as is known, she was first interviewed in December 2017, after Flynn's guilty plea would have made it clear he had relayed some of this, though some FBI interviews that happened the summer before don't appear in the Mueller Report. So at least given the public record, Hicks would have been able to temper her answers based off what Flynn was known to have admitted in his plea.

The public record certainly sustains a version akin to the public version about Priebus: that he knew about the call to Kislyak in real time, but only came to learn that they talked about sanctions after the FBI interview.

But Hicks' answers and evasions – and her constant access to Trump – leave open another possibility.

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.