

TY COBB'S CLAIM ABOUT WHITE HOUSE COUNSEL RECUSAL CAN ONLY BE NARROWLY TRUE

Politico has a story that has generated favorable press for White House Counsel Don McGahn. He had his entire office recuse from the Russia investigation, it claims, basing the claim on public comments by Ty Cobb.

White House Counsel Don McGahn recused his entire staff last summer from working on the Russia investigation because many of his office's lawyers played significant roles in key episodes at the center of the probe, former White House attorney Ty Cobb said on Wednesday.

McGahn made the decision to halt his staff's interactions with Special Counsel Robert Mueller because many of his own attorneys "had been significant participants" surrounding the firings of national security adviser Michael Flynn and FBI Director James Comey, Cobb said.

[snip]

While it's been widely known that McGahn handed over day-to-day responsibilities to Cobb when he started working in the White House last July, neither of the Trump lawyers had ever specified that the entire White House legal office had been recused from the Russia probe in its entirety.

The story explains something I've long been struck by – the claim in a John Dowd document from January that eight members of the White House Counsel underwent voluntary interviews with Mueller's team.

Over 20 White House personnel (not including Campaign team members) voluntarily gave interviews; including 8 people from the White House Counsel's Office.

Two-fifths of those Mueller interviewed by January were personnel from the White House Counsel's Office?!?!

Perhaps it's better to say that this new Ty Cobb story is best *explained by* that factoid: The White House Counsel's office was a subject of real scrutiny for Mueller.

After all, public reporting makes it clear that Ty Cobb did not take over all Russian investigation matters, at least not immediately. He was hired by July 14. As late as mid-September, he was publicly bitching about tensions with McGahn *and making it clear McGahn was withholding probably responsive documents.*

The debate in Mr. Trump's West Wing has pitted Donald F. McGahn II, the White House counsel, against Ty Cobb, a lawyer brought in to manage the response to the investigation. Mr. Cobb has argued for turning over as many of the emails and documents requested by the special counsel as possible in hopes of quickly ending the investigation – or at least its focus on Mr. Trump.

Mr. McGahn supports cooperation, but has expressed worry about setting a precedent that would weaken the White House long after Mr. Trump's tenure is over. He is described as particularly concerned about whether the president will invoke executive or attorney-client privilege to limit how forthcoming Mr. McGahn could be if he himself is interviewed by the special counsel as requested.

The friction escalated in recent days after Mr. Cobb was overheard by a

reporter for The New York Times discussing the dispute during a lunchtime conversation at a popular Washington steakhouse. Mr. Cobb was heard talking about a White House lawyer he deemed “a McGahn spy” and saying Mr. McGahn had “a couple documents locked in a safe” that he seemed to suggest he wanted access to.

[snip]

Complicating the situation is that Mr. McGahn himself is a likely witness. Mr. Mueller wants to interview him about Mr. Comey’s dismissal and the White House’s handling of questions about a June 2016 meeting between Donald Trump Jr. and a Russian lawyer said to be offering incriminating information about Hillary Clinton.

Mr. McGahn is willing to meet with investigators and answer questions, but his lawyer, Bill Burck, has asked Mr. Cobb to tell him whether the president wants to assert either attorney-client or executive privilege, according to lawyers close to the case. Mr. McGahn could face legal jeopardy or lose his law license should he run afoul of rules governing which communications he can divulge. He did not respond to requests for comment.

Unless NYT’s reporting – and Cobb’s public blabbing – was entirely wrong, then Cobb can only mean McGahn later recused (or recused sometime just before the Fall Equinox last year, so technically still summer). It’s possible this incident precipitated McGahn’s recusal – not to mention made Mueller even more interested in interviewing him. More likely, the discovery that McGahn could be interviewed – including about his transparently bad defense of the Mike Flynn firing – led Trump to decide that White House Counsel staffers had to be totally recused

from matters that pertained to his legal exposure (though if that's true, I wonder what Emmet Flood is doing).

Alternately, it's possible that McGahn recognized that his continued exposure to Trump's obstruction in conjunction with the Russia investigation exposed him to legal jeopardy. If that's the case, his recusal wasn't about ethics, it was about self-preservation.

Update: LemonSlayer noted on Twitter there's a much later indication of the purported recusal McGahn has adopted: collaborating with the Devin Nunes effort.

Nunes, meanwhile, has purposefully not been talking to Trump, to avoid accusations that he is providing sensitive information to the president, according to these people. Instead, Nunes has been relaying the status of his battle with the Justice Department to White House Counsel Donald McGahn.