

DRAFT

Privileged and Confidential

June 15, 2018

Memorandum

To: Flynn File

From: Alexandra Langton

Re: June 14, 2018 Interview Notes

On June 14, 2018, General Michael T. Flynn ("MF") participated in an interview with the Special Counsel's Office ("SCO") and prosecutors from the Eastern District of Virginia ("EDVA") at 850 10th Street, NW, Washington, DC from approximately 9:00a.m. to 1:00p.m. pursuant to the cooperation agreement dated November 30, 2017 between MF and the SCO. Robert Kelner ("RK"), Stephen Anthony ("SA"), and Alexandra Langton ("AL") represented MF during the interview. Brandon Van Grack ("BVG") and Mary Gleason ("MG") represented the SCO. James Gillis ("JG") and Brian Alfredo ("BA") represented the EDVA. Evan Turgeon ("ET") represented the National Security Division of the Department of Justice. This memorandum summarizes the discussion at that meeting.

I. Osman Burgrahan and Enver Altayli

Jim Gillis shows MF e-mails sent to Enver and Osman between February and March 2016.

JG: In the February 21, 2016 e-mail from Burgrahan, he says that "the meeting was great." Can you tell me what meeting that was and when it occurred?

MF: I am trying to think about how I got introduced to this guy. I think it was through Dewey Clarrige and the Oli North crowd. It's likely an e-mail distro list.

JG: When was that in relation to this e-mail?

MF: It was fairly close. At the time I was doing a lot of media on a range of issues, so I was introduced to a lot of different people and I would use them as resources to get a sense of current events. The meetings that I had with this guy . . . there was another guy there, maybe Enver. One was older and one was younger.

JG: Is this the meeting the e-mail refers to? How many times did you meet?

MF: I think I met with them at least once, maybe a couple of times. We met in our offices in Alexandria. I did a "white board session" with them about what was going on in the Middle East. That was really of more interest to me. I don't think we talked about business stuff.

JG: What was the situation as far as it affected Turkey?

MF: It was everything. kind of what I walked you through yesterday. I was fascinated by the kinds of things that they provided. The kinds of problems that were going on. A lot of it would depend on the time period. In early 2016, there had been a lot of things that happened since summer 2015. I know I did at least one Skype session with them.

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JG: Were you compensated for your time with them?

MF: No. It's like talking to other people around town that are from other countries. My passion is to get input from different sources. I found these guys of interest. I was being friendly to a friend who introduced him. I did get a note back saying thanks for meeting with them-maybe from Dewey. I found the older gentleman of interest.

JG: Anyone else besides the three of you?

MF: I don't think so. It was kind of like "war game." We did a white board session where I drew a map of the Middle East and talked about how it might evolve.

JG: What was Turkey's role?

MF: They had a lot of insights, but I was getting their sense of where Turkey was. If there's a guy who think he can resurrect the Ottoman Empire, it's Erdogan.

MG: Were they pro-Erdogan?

MF: Yeah, generally. It was an ongoing discourse of what I felt was relevant information. They seemed to have good connections.

JG: With whom?

MF: People in the government and people in the know.

JG: Can you be more specific?

MF: Either they had spoken to Erdogan or people who were advisors to him. The other thing on all of this, there was a period of time when I was doing an enormous amount of media. For me, doing that kind of activity, you need to stay current and fresh. I looked at these interactions as part of that.

KG: They came to you?

MF: Yeah, they were introduced to me. I found them interesting.

JG: You mentioned the trip to Turkey, which was a possible trip to Turkey. Any conversations about who might pay for that trip?

MF: I don't know if we talked about it. Nothing specific.

JG: What was your expectation?

MF: If I were traveling overseas, it depends on the purpose and the role. I would not have done it on my own dime.

JG: You mentioned that you had not been to Turkey. Do you recall if you were planning a time to go to Turkey or if you had no other reason except for this?

MF: I've never visited before, so that was probably part of my thinking on this.

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JG : Part of the campaign?

MF: No. I didn't really join the campaign until Trump had really won the primary.

JG: Do you recall any independent reason why you would've gone to Turkey?

MF: I don't. It would have been out of sheer interest and curiosity.

JG: Before you heard of these guys, were you planning a trip to Turkey?

MF: None that I remember.

JG: In the March 30, 2016 e-mail from Burgrahan, he mentions a written report, that Erdogan wants to meet you, and that it is important to maintain connections. Reading this, can you tell me anything specific that was discussed at these meetings? Focus on why it was important to maintain connections with you? What was this report about?

MF: I think, to me, I remember the white board session we had was extensive. I laid out what I thought was going to happen and how that would play out. They may have relayed some of that back. I don't recall him telling me that, but he may have. My views were generally that we, the US, had to pay greater attention to the immigration problem. The immigration problem was rearing its ugly head.

JG: Syrian refugees?

MF: Yeah. My views at the time were how we should be working with Turkey because Turkey was fighting in north Syria. Our interactions with the Turks has always been a little neglected and then all of a sudden, we need them . We've neglected these relationships to our detriment over time. I don't remember where he said, here is the summary of the meeting.

JG: What was the situation with Gulen at that point?

MF: I think he's always been there. Gulen was someone we were dealing with when I was in the military.

MG: Didn't Erdogan grow up in Gulen schools?

MF: Oh yeah.

JG: Was the threat of military coup "true" during this time period?

MF: Yeah. it is a constant tensions with the government and the military. There were a fair number of general officers that were thrown in jail. The Gulenist movements, I believe, fuels some of that tension inside of Turkey.

JG: Were you on record having said that around this time?

MF: I'm not sure if I was on record. I'd have to look at documents.

JG: So, the thing that I'm serious about, for the president of turkey to come to see you and set up this meeting is a pretty high level meeting. it seems that it might be more than just General situation in Turkey. Why did it call for such a high level meeting?

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MF: I don't know. I think it depends on the relationship those two gentleman had with him.

JG: What kind of relationship did they have?

MF: I understand that they knew him personally.

JG: How did you know that?

MF: What they told me. I saw it as a potential opportunity. I had certainly testified about Turkey. I had worked with the Turks.

JG: The testimony, tell me about it.

MF: Various congressional testimonies on the nuclear deal.

RK: Meaning you had prominence that may have caught Erdogan's attention?

MF: Yeah. I don't recall any formal article or testimony where I said anything formal about Gulen, although I definitely had my views.

JG: Would you agree that having a meeting with the President of Turkey was a high-level meeting?

MF: Yeah, I would. Sometimes those meetings are like that. I met a lot of very senior people prior to that when I was at DNI or DIA. I'm not enamored by that.

SA: You're not star struck?

MF: Right.

JG: What I was getting at, from Erdogan's perspective?

MF: I don't think he was coming in just to see me.

JG: Given his schedule, I would imagine that it would be important meeting to block out time to see you?

MF: Yeah, I would say so. I probably would've prepped differently if I was going to meet with him.

JG: Meeting never came about?

MF: Right.

JG: In that context, do you recall any specific topic or area that Erdogan was interested in?

MF: In general, I believe he wanted to know what are the views of people in the United States.

JG: He can get that from underlings?

MF: Not necessarily. I think the views of others are important to senior officials.

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JG: Interested in same white board presentation?

MF: I think my views on what was happening in the Middle East and the direction things were going were not necessarily the views of the current administration. I was very clear in 2011 and 2012 about what would happen. At the strategic level, those things happened. Our relationship in the Middle East were rotten.

JG: In a March 30, 2016 e-mail to Burgrahan, you say that you look forward to meeting with President and his team members.

MF: I'm being polite and maintaining a relationship.

JG: By this time, you were already working with Bijan Kian?

MF: I was. We had formed our FIG Inc.

JG: Do you recall whether you discussed these meetings with Bijan?

MF: I recall that Bijan and I spoke about this interaction. I don't believe he was ever in the meeting. I'm pretty certain we spoke about this interaction.

JG: And the possibility of meeting with Erdogan?

MF: I'm not sure if we talked about that. You're scraping at cobwebs. I told Bijan that I had this conversation going on. I don't know what depth I discussed with him. I think I took a photo.

JG: Of the white board?

MF: Yeah.

JG: And you may have sent that to Bijan?

MF: Yeah, maybe.

JG: As far as whether you told him about meeting with Erdogan, you don't remember one way or the other?

MF: I don't remember, but I can't imagine not telling him.

JG: We understand general interest in Turkey. Was it in your mind also that this could present significant business opportunity.

MF: I would say yes. The idea of potential business opportunity was always there with things we were doing. It was more of a very interesting ongoing conversation. There are different reasons why I would do that. Part of it, was I was trying to be relevant.

JG: The last communication that you have with them before the coup is March 30, 2016.

MF: Yeah, usually they would e-mail me.

JG: Do you remember that communications dropping?

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MF: I think there was a gap. Why, I couldn't tell you. I mean, if someone wasn't bothering me, I was probably ok with that. My tendency is to interact and relationships and respect. I have a tough time saying no, I don't have the time. If there was a gap, I couldn't really define that.

JG: Just for context, and you're not copies on this e-mail, this is Bijan reaching out to Alptekin about this contact. Were you aware Bijan made this outreach?

MF: No, I had no idea.

JG: The next one is the July 15, 2016 e-mail, on the day of the coup at 5:37. DO you remember that one?

MF: I had this relationship with him and it was almost like he was giving me tactical updates. There were some things on TV. I don't know whether it was him or someone else of their version of Congress. It was like he was giving me "sit reps." I know that I was going on media, so I was relaying current information.

JG: He gives you response and references "land, air, and navy forces acting together." It says Erdogan was accusing Gulensit movement. This seems to be the first time Gulen comes up in your discussion with Burgrahan. Was there much follow on discussion about Gulen with Burgrahan.

MF: No. There was a lot written about what was going on and who was behind it.

JG: A lot of discussion in the media about Gulen's potential involvement?

MF: Oh yeah, there was quite a bit. I would probably have reached out to friends in the military to get their sense.

JG; On July 17, 2016, you sent Osman a telephone number. Whose number is that?

MF: That's an old number of mine.

JG: Just giving that to him to keep in contact?

MF: Yeah.

JG; Here is an "unclassified" Turkish document addressed to Ekim Alptekin on July 26, 2016. Do you know if Alptekin was a board member of DEIK?

MF: I have no idea. This is the first time I had seen this. My knowledge of Ekim was skin deep. Bijan always called him a captain, so I don't know if he was in the military. This DEIK think was not something I was aware of.

JG: Are you aware of any official connection between the Turkish American Council and government of Turkey?

MF: I don't believe that I am, but I would say in a multiple choice test, yes. I would say they have people who are quasi-government officials or actual government officials on that council.

JG: There is this document from July 30, 2016 that starts "I just talked with Enver" and you ask to talk with Burgrahan. Do you recall what this e-mail is about?

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MF: I'd have to look at current events at the time.

JG: It is the very day that Bijan sends Ekim Alptekin, copying you regarding the "Truth" campaign. That say, you send an e-mail expressing a sense of "urgency" for the project. There's this convergence of things that happen at the same time. Do you have any recollection as to why it happened at the same time?

MF: I don't remember having any conversations with the Osman guy about business with Ekim. I was using them to a degree to get information. The world they [Turkey] is small. The circle of pro-Erdogan people is pretty small. Ekim comes on the stage. if Ekim presents to the Turks some proposal and Flynn's name is involved and Erdogan's involved, he'd be like, yeah, that's a guys we know that believes in a good U.S.-Turley relationship.

JG: But it wasn't a topic of conversation?

MF: It wasn't. The likelihood of those guys knowing each other is probably yes.

JG: based on discussions you had, you were aware that Osman and Enver were putting your name in front of Erdogan?

MF: Yeah, I think that's fair.

JG: Then comes the engagement with Alptekin that you're on.

MF: Yes.

JG: Did you hear of any effort to obtain from the U.S. the extradition of Gulen before the coup?

MF: I likely had heard about it. He was a person that the Turks were interested in. There was a falling out. That was clear on open source stuff.

JG: Aware whether there were any charges leveled against Gulen before the coup?

MF: I can't say that I was. I don't recall that. I'm just thinking about things I read or was aware of.

JG: Awareness from open sources?

MF: Yeah, just from reading and seeing things in various sources. I don't recall having a conversation with anyone specifically about that.

JG: Do you recall hearing about any meetings that took place between DOJ and Turkish Ministry of Justice seeking Gulen's extradition in the first half of 2016?

MF: I don't recall that at all. As I sit here today, I don't have a recollection of someone saying there is going to be a meeting. If someone sent me something, that would be a significant thing for me to read.

JG: Do you recall in these conversations with Enver and Osman, and potential for business opportunity that took place before Bijan started talking to you about Alptekin, was there any discussion of FIG doing something similar to this project confidence?

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MF: Another effort similar to it?

JG: Right?

MF: Not with those guys. I don't believe I had any conversations with those guys about it.

JG: Focus of effort with Alptekin was the government of turkey overseeing it and Gulen being the focus. Nothing like that with the other two guys?

MF: No. Back to your question about going over Turkey, I would have been thinking about how to leverage those relationship into a speaking arrangement or something along those lines. I would have been thinking about that certainly.

II. LDA

ET: Conversations before FIG filed under the LDA on September 30, 2016?

MF: When Bijan raised this business about filing, y whole thing was "is this the right thing to do?" and he acknowledged that?

RK: You don't remember him mentioning an alternative?

MF: No. I never remember hearing about FARA until I got the letter from DOJ.

RK: That you remember?

MF: Right. On LDA, I recall Bijan saying that Bob had reviewed this and that this is the approach we should take.

ET: Do you mean LDA or approach generally.

MF: I assumed Bob Kelley was briefed by Bijan on what was going on. Fast forward, I learned that Bijan had called here [Covington] to ask about FARA filing. I didn't know about that. He asked a couple of stupid questions that had nothing to do with FARA, but just political nonsense. I didn't find out about that until later on. Number one, that irritated me because he thought about that. He knew what FARA was. I've never talked to him about this. Other sticking the document I got from DOJ in his chest was one of the last times I spoke to him. I was irritated that he had called up about FARA. For the cost of 10K to file FARA we're now sitting here.

BVG: The incident where you shoved the letter in his chest, walk us through that.

MF: I went to this Christmas party at my old office, I hadn't been there in a while. When I get there, we were having a Christmas party, I pick up a stack of mail. I found this litter from the DOJ, and I say, "what the fuck is this?" The next day, I went in to the transition headquarters and I went and made a copy. Bijan was working with the IC transition team. I had the letter in my hand. I went over to him and I said "here, you need to take a look at this thing" and "what's up with that."

ET: Did he respond?

MF: I basically said, there's this thing called FARA that they are asking about and this is kind of a subpoena for things about Ekim.

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SA: What these guys would like is to see if you can remember Bijan's reaction.

MF: I'm trying to see if I recall if there was a follow up from him.

RK: Focus on immediate interaction. Bijan is a very chatty guy. I'm imagining he would have said something to reassure you.

MF: It would have been brief. part of it, was "you need to read this."

RK: Remember shortly thereafter, you went on vacation. Your then counsel, Kristen is dealing with this while you are away.

MF: I don't recall if I had another follow on from him. When I gave him that copy of that document, he knew I was upset about it in a "wtf" kind of thing.

BVG: There were a number of article that occurred in November around the op-ed that raised the allegation of FARA. Did you read any of that news media or have conversations with Bijan about it.

MF: I read some of that. We even coordinated on a statement regarding our work with Ekim's group. There was an article about Ekim doing the work for an Israeli company.

BVG: Did you interact with Bijan about those stories?

MF: I'm trying to remember if Bijan said "don't worry about it" or "we're covered. In that period of time, I got no indication from Bijan that he was worried about what we had done. I didn't have an indication from Bijan before or right after I gave him that letter that he was worried that we had done something out of school. He would typically let me know about certain things that were going on. If he was worried about an incorrect filing, he didn't let me in on it.

JG: Did he ever express to you that he had gotten a legal opinion and that's why it was ok. Did he mention a lawyer?

MF: I go back to what I just said. he did not seemed concerned. I'm pretty comfortable because we had filed this thing about the LDA. That was before I saw the letter about FARA.

BVG: Did you talk to anyone else from FIG during this period of time about FARA vs. LDA?

JG: When did you go on vacation?

MF: Left on Christmas day.

JG: So after you got the letter?

MF: Right.

BVG: At this time, do you speak to other people with FIG about LDA/FARA.

MF: Yes. Brian mentioned to me that he or a group of our team had spoken to Bijan about it.

BVG: Who is they?

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MF: McCauley and whoever was there at that meeting.

BVG: This was during the project?

MF: Yes.

BVG: What was substance of conversation.

MF: That they had talked about it. Brian said that he had a conversation with Bijan.

JG: After the FARA letter and your shoving it in Bijan's chest, you had a conversation with Brian McCauley in which he told you he had spoken to Bijan bout FARA. Was he telling you the conversation occurred before the FARA letter?

MF: Before.

BVG: What was the gist of what McCauley conveyed.

MF: His interaction with Bijan and a couple of others had talked about FARA. It was either Bijan telling Brian "we don't have to do it" or that Bijan was relaying that "we're ok."

ET: How did you find out about conversation?

MF: I don't know, I think news stories that were coming out.

BVG: You recall Bijan, Brian, and others had a conversation in the context of this project.

MF: Yes.

BVG: Anyone else?

MF: I don't think so. With respect to the letter itself, I gave Kristen a copy and Bijan a copy. I relayed it to Don McGahn that I had gotten this letter to inform the transition team. I spoke to him on the phone per advice of Kristen at that time. His answer to me was basically, "don't worry about it." Kristen also contacted him.

ET: Who was your lawyer at the time?

MF: Kristen Verderame.

RK: It was actually I who reached out to Kristen.

BVG: In terms of creation of FIG, Alptekin were not the only foreign clients FIG sought to do business with. In context of setting up FIG and parameters of legal issues, did you or Bijan have a conversation about lobbying or registration requirements?

MF: No. The naïve side of my business acumen for that kind of stuff was a lesson learned. For the cost of filing a FARA, we wouldn't even be talking about this. I probably should have told Trump about it, but I didn't. I did tell the transition's lawyer.

ET: In September 2016, any conversations with anyone else at FIG whether to file under LDA/FARA.

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MF: No.

ET: Kelley?

MF: He came into the office at one point. I don't remember any conversations about LDA or FARA filings.

ET: Tom Spencer.

MF: I maybe have met Tom spencer, but I couldn't tell you who he is.

ET: Discuss LDA/FARA on weekly calls with Ekim.

MF: I don't think we did.

ET: Did FIG have outside counsel?

MF: Bob Kelley.

ET: Was he inside or outside counsel?

MF: Bob was not someone who was very expensive. Bob came on as someone who was inexpensive to give us legal advice.

BVG: When did you first meet him?

MF: Ballparks summer/fall of 2016. He was presented to me by Bijan as someone who wouldn't be that expensive.

BVG: Any lawyer look other contracts for you?

MF: Bob Kelley. Other contracts I would always give them to Kristen.

BVG: This [the Inovo project] was the first work that Bob Kelley looked at for FIG Inc.?

MF: As far as I know.

ET: In one Skype chat between Ekim and Bijan, Bijan said that he had "hired a law firm and they are reviewing for compliance." What does that refer to?

MF: I should know. It is probably Bob Kelley. That's a good bullshit line by Bijan.

ET: Before the LDA was filed, did you ever discuss with Ekim anything about how this would be reported in the US?

MF: I don't remember discussing anything about that aspect of this business project. As I understood it, we were a consulting firm representing this company, with involvement of Turkish government, as we discussed yesterday.

ET: Did you ever talk to Graham Miller about whether Sphere would register under the LDA?

MF: I know they registered. I don't believe they did, but they registered later.

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ET: Do you know if Bijan did?

MF: I don't know.

ET: Who was involved in drafting the LDA?

MF: Bijan and Bob Kelley.

ET: Why is that your understanding?

MF: I don't really know, but I assume.

ET: Did you personally provide anyone information to use in that filing?

MF: No.

ET: Did you see that document before it was filed?

MF: I don't know whether I did or not. I remember seeing it digitally. Whether that was before or after, I couldn't tell you. I probably reviewed it before, but I don't know for sure.

ET: Communications with Kelley?

MF: No.

ET: Any other attorneys about that document around the time it was filed?

MF: No.

ET: Did you know if anyone reviewed that document with attorneys?

MF: No, just Bijan and Bob Kelley.

ET: Did Bijan tell you he was talking to Kelley?

MF: I recall Bijan telling me about this.

ET: In the context of him reaching out to you for your approval?

MF: I don't think he was asking for my approval. It was just "we need to do this" and "this is the right thing to do."

ET: Did he say that or did you say that?

MF: We interacted on that. He acknowledged to me we were doing this. He said Kelley was involved. I said "ok."

JG: You didn't direct Bijan or Kelley to file it?

MF: No.

JG: Bijan said, "this is what we have to do."

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MF: Right.

ET: Had you done LDA or FARA filing for other projects?

MF: I wish I had. No.

ET; Anyone raising questions or suggesting corrections to the filing?

MF: No.

ET: Line 12 of LDA references two Senate Bills. Have you ever heard of those?

MF: No.

ET: Did anyone discuss those with you?

MF: No.

ET: Do you know what those are, apart from what you have heard from counsel?

MF: No.

JG: Your lobbying issues had nothing to do with some senate bill, right?

MF: Yeah, that's all legalese to me.

JG: But your work had nothing to do with a Senate or House bill?

MF: I don't remember that being part of it. Nothing like that.

JG: What about the statement in the LDA that FIG was not working for a foreign government? Based on what you've told us, would it be fair to say that this is also false?

MF: Yes.

ET: Next document is a periodic lobbying report. Do you know who was involved in drafting that lobbying report?

MF: I don't.

ET: Do you remember any discussions with anyone about further reporting under the LDA?

MF: No.

ET: Did you provide any information to be used in the LDA?

MF: No.

ET: Do you know anyone else who did provide information?

MF: No.

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ET: Any conversations with Kelley or Spencer about this?

MF: Nope.

ET: Do you recall hearing from Bijan about communication between Bijan and Kelley?

MF: I don't know.

JG: Did you know it was being filed?

MF: No.

ET: In line 11 of the LDA filing, it says that no lobbying occurred. You said that Bijan, on behalf of FIG, had contact with Miles Taylor about the project?

MF: Yes, I believe that he had met with Miles.

ET: And that Bijan had visited Rohrabacher about the project?

MF: Yes.

ET: Do you consider this statement that no lobbying occurred accurate?

MF: I do not.

RK: There is also line 17.

ET: Line 17 is checked, is that accurate?

MF: No. Also, 18 not filled out.

ET: What do you believe is inaccurate about the fact that there is no information in line 18?

MF: I would say Bijan did lobbying.

RK: I would note that the definition of a lobbyist is a legal term of art that General Flynn might not know.

BVG: Colloquially.

JG: This first filing under the LDA, under "lobbyists" only Bob Kelley is listed. He wasn't going to be doing any knowledge, was he?

MF: Not to my knowledge. No expectation that he was going to be "our lobby face."

III. FARA Filing

ET: This is your electronic filing on this document?

MF: Yes.

ET: You said before you talked to Bijan about gathering information?

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MF: Right.

ET: What did you say?

MF: I didn't really talk to Bijan about this.

ET: Who drafted the FARA filing.

MF: I reviewed it. I am assuming he did.

ET; But who wrote it?

MF: Covington.

ET; Who provide information?

MF: Me and Bijan.

ET: Anyone else?

MF: No.

ET: Did you provide information directly to lawyer?

MF; Yes.

ET: What about Bijan?

MF: Yes, he provided information directly to the lawyers.

ET: What information did Bijan provide?

MF: I'd be guessing.

ET; Communications with Bijan about filing?

MF: I think zero. I'm trying to think.

ET: Did you ever reach out to Bijan about providing information to lawyers?

MF: I don't know whether I did or if these guys did on my behalf.

BVG: At the time, Covington represented FIG, in the context of talking to another member of FIG, did you have any conversations on the minutia on preparing for this FARA filing.

MF: I don't think I spoke with anybody other than these guys [Covington] and Kristen.

ET: Any contact with Bijan's lawyers?

MF; No.

ET: Do you know who his lawyers are?

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MF: No.

JG: Bumping into him was the last time you saw him?

MF: Yes.

ET: Do you know if Robert Kelley had any role in providing information for this filing?

MF: I don't.

ET: With regard to information to Covington lawyers, to whom did you provide information?

MF: The team that you see here [Robert Kelner, Stephen Anthony, Alexandra Langton].

RK: Brian Smith?

MF: Yeah.

ET: In December 2016, do you remember calling Robert Kelley and Bijan and asking that they reach out to another lawyer at Jones Day?

MF: I don't remember. The guy I remember that worked there was Don McGhan.

ET: But that was for transition business?

MF: Yes.

ET: In one of your previous interviews, you talked to Bijan about JPCOA. Anything that would lead you to suspect that Bijan provided Iran deal-related documents to a foreign citizen or foreign government?

MF: I don't know anything about that.

ET: Are you aware of Bijan breaking rules regarding safeguarding of information?

MF: I am not.

JG: You'll recall the convergence of e-mails on July 30, 2016 regarding Turkey. July 30 appears to be when Enver/Osman communications stop. Was there any reason, for example client conflict, that prompted you to drop them?

MF: None that I'm aware of.

JG: You mentioned that you used notebooks and 3x5 cards to help you with your memory. Are those things that we have?

RK: To the extent that we had them, they've been produced.

JG: We have your calendars, right?

RK: Yeah.

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ET: Did you have communications with Enver and Osman beyond e-mail conversations?

MF: Skype. Maybe one or two times.

ET: Whose idea was it to use Skype?

MF: I think it was on their end.

JG: You had mentioned that Friday phone calls with Alptekin usually took place using Bijan's cell phone.

MF: Usually, yeah.

JG: Did he call him on Skype, WhatsApp, or on his normal cell phone number?

MF: I don't know.

ET: Voice communication?

MF: Yes.

Brian Smith Notes 1/2/2017

A.C. - WP - PAC

MF

No others

Levichs - W. Coast - Levix - Iranian American Founder

Brainwave - Bloomberg - Dual member corrections

Action - Advise, consult business development

AC WP PAC

MF

No others

Levichs W. Coast Levix Iranian American Founder

Brainwave Bloomberg Dual member corrections

Action Advise, consult business development

Introduced Levix to Verizon

Founder Dr. "Reza" Sadri - grew up in US

Brainwave Science - Advisor to the company

Indian American Krishna Sarha

US Company in Massachusetts

Train for law enforcement

Trainers of law enforcement FIG

Founder may have reached out to government

Business development - sales and revenue

Introduced Levix to Verizon

Founder Dr. Reza Sadri grew up in US

Brainwave science advisor to the company

Indian American Krishna Sarha

US Company in Massachusetts

Train for law enforcement

Trainers of law enforcement FIG

Founder may have reached out to government

Business development sales and revenue

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Farsen - Com for Vice Chair - Bijan
 "Aguim" Alptekin - Serves on Turkish American Council
 Nalrouse Commission - Iranian American New Years
 They call reps Ambassadors

 July/August 2016 - Zihl discussions
 Consult for Inovo. Post coup.
 Create confidence in Turkish businesses to invest in Turkey

Inovo came from vice chair Bijan
 "Aguim" [Ekin] Alptekin serves on a Turkish American Business Council
 Nalrouse [Nowruz] Commission Iranian American new years
 They call reps Ambassadors

July/August 2016 Zihl discussions
 Consult for Onovo Post coup.
 Create confidence in Turkish businesses to invest in Turkey

Agreement to consult to Inovo. August 9.
 Advisory Council services to Inovo. Create confidence to
 Invest in Turkey

 Post convention - August 9-11 in Texas
 Busy w/ campaign and Trump
 Busy schedule

Agreement to consult to Inovo. August 9.
 Advisory consult services to Inovo. Create confidence to
 Invest in Turkey

Post convention August 9-11 in Texas
 Busy w/ campaign and Trump
 Busy schedule

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Bijan - Vice chairman 202
 Mike owns 35%) raising have
 Mike has LLC for book and speaking) draft 2,
 Bijan - Iranian American 80s naturalized
 Former member of Ex Im
 Served Bush and Obama
 Econ Devl of state of Cal.

Bijan vice chairman 30%)
 Mike owns 35%) remaining have
 Small %

Mike has LLC for book and speaking

Bijan Iranian American 80s naturalized
 Former member of Ex Im
 Served Bush and Obama
 Econ Devl of state of Cal.

Nalrouse Commission, VOA, Iranian American stuff
 Aguin - is Inovo
 Bijan brought business to FIG

Nalrouse [Nowruz] Commission, VOA, Iranian American stuff
 Aguin [Ekim] is Inovo
 Bijan brought business to FIG

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Conversation on what we would do.
 Came to DC. Friday afternoon phone calls to Aguin
 Update on our efforts
 2x calls ~ 30 minutes each

Conversation on what we would do
 Came to DC. Friday afternoon phone calls to Aguin [Ekim]
 Update on our efforts
 2x calls ~ 30 minutes each

Aguin set up meeting in September.
 Ministers of Turkey in NY for UNGA
 Met 2 ministers - Transportation and Foreign
 Me, Woolsey, Aguin, Bijan
 30-45 minutes

Aguin [Ekim] set up meeting in September
 Ministers of Turkey in NY for UNGA
 Met 2 ministers Transportation and Foreign
 Me, Woolsey, Aguin [Ekim], Bijan
 30-45 minutes

RK. Rebut?
 MF only in the engagement a bit
 Laid out for Aguin [Ekim] how we'd do what we do
 Heard from them on the challenges they're facing
 ~ 2 months after coup
 Research - how are things in Turkey

RK Details?
 MF Only in engagement a bit
 Laid out for Aguin [Ekim] how we'd do what we do
 Heard from them on the challenges they're facing
 ~ 2 months after coup.
 Research how are things in Turkey

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RK - Gulan?
 MF - They did. Where we are w/ relationship.
 RK - Notes?
 MF - Don't know if any. Maybe on Turkish side

RK Gulan?
 MF They did. Where we are w/ relationship.
 RK Notes?
 MF Don't know if any. Maybe on Turkish side.

K - Have email, from Mike's account
 use Virtru
 MF2
 FIG accounts shut down in December except MF.
 Backed up me and Bijan
 Have file that's backup of Bijan
 Can get the file from him.
 Can't access his. Have mine and MFL
 Gmail accounts - Virtru on top of certain emails
 He has access to them, we don't
 Virtru

K Have emails from Mike's account
 Use Virtru
 MF2 FIG accounts shut down in December except MF.
 Back uped [backed up] me and Bijan
 Have file that's backup of Bijan.
 Can get the file from him.
 Can't access his. Have mine and MFL.
 Gmail accounts Virtru on top of certain emails
 He has access to them, we don't

Virtru

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K - Have some emails -

K - weird to sit w/ Turkish ministers?

MFI - yes had just came from other meeting on campaign side.
Talked about where we were @ that time.
Were not very far.

KV Research into Gulen - Tom Near ^{Near} ~~Neer~~, Brian McCauley ^{Principal} ~~former~~ FBI

Project confidence 75 pp report re Gulen.
Plan for disseminating what they found, based on the report

K Have some emails

K Weird to sit w/Turkish ministers?

MFI Yes had just came from other meeting on campaign side.
Talked about where we were @ that time.
Were not very far.

KV Research into Gulen Tom Near [Neer] > advisor, Brian McCauley > Principal former
FBI

Project confidence 75 pp report re Gulen
Plan for disseminating what they found, based on the report

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Bijan says that report was our idea.

RK - Specific contract. Laboratory of individuals.
Have retained film and production crew.

MFI - other emails that show details.
Mike Boston

RK - Findings and criminal referrals.
Sphere Consulting.

Bijan says that report was our idea

RK Specific contract. Laboratory of individuals.
Have retained film and production crew.

MFI other emails that show details
Mike Boston

RK Findings and criminal referrals.
Sphere consulting.

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MF1 - Investigation we conducted
RK - network in US
MF1 - Sphere brought in by Bijan
To create video, story, Turkey do to invest in.
Confidence in the country to invest
RK - op ed and ~~sleep~~ sleeper networks, plus criminal referrals
Changes context

MF1 investigation we conducted.

RK network in US

MF1 Sphere brought in by Bijan.
To create video, story, Turkey to invest in.
Confidence in the country to invest

RK ●p Ed and sleeper networks, plus criminal referrals
Changes context

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MF1 Left the details to Bijan

RK. Bob Kelly - on LDA

MF1 - Sept / August - Abundance of caution
Bob Kelly - register - Don't know what that is
We'll be doing work for this make up.
Out of my depth
Kelly didn't work on underlying work.

RK - Kelly listed not you

MF1 - yes.

KV - asked Bob. Dutch company.

Bijan ~~told~~ told me it was Dutch company
Bob is atty

MF1 Left the details to Bijan

RK Bob Kelly on LDA [LDA]

MF1 Sept/August Abundance of caution
Bob Kelly register don't know what that is
We'll be doing work for this make up.
Out of my depth
Kelly didn't work on underlying work.

RK Kelly listed not you

MF1 Yes.

KV Asked Bob. Dutch company.
Bijan told me it was Dutch company
Bob is atty

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Mike Boston responsible to oversee
 Bijan gave pieces to everyone
 MF1 I wasn't involved in day to day
 Conference calls and meetings
 Contract is for 90 days
 Decided not to continue
 RK - Captain Ahenim?
 MF1 - Don't know.

Mike Boston responsible to oversee
 Bijan gave pieces to everyone
 MF1 I wasn't involved in day to day.
 Conference calls and meetings
 Contract is for 90 days.
 Decided not to continue.

RK Captain Ahenim [Ekim]?
 MF1 Don't know.

KV - Bijan has answers. Contradicted by emails.
 Inovo - Services company Aguin is consultant.
 Bijan said it's to look smart in meetings.

KV Bijan has answers. Contradicted by emails.
 Inovo services company Aguin [Ekim] is consultant.
 Bijan said it's to look smart in meetings.

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KV. Ekim - emails show Turkey
Mike copied on ^{many} of the emails

MF1 My calendar is jammed packed - few hours only

KV Alpetkin → Bijan and MF1 - August 4.
Money from Ministry

KV Ekim emails show Turkey
Mike copied on many of the emails.

MF1 My calendar is jammed packed few hours only

KV Alpetkin > Bijan and MF1 August 4.
Money from ministry

Bob Kelly - Solo practitioner. Counsel outside "to the project"
Government behind it, and Mike copied.

RK - Call from someone in August.
FARA advice - referred to other lawyer.

Bob Kelly. Solo practitioner. Counsel outside "to the project"
Government behind it, and Mike copied.

RK Call from someone in August
FARA advice referred to other lawyer.

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MF1 July 19 - Convention
Did some speeches on LLC
~~etc~~

MF2 - This project Comm w/ Bijan on wire transfers
To FIG out to Ekim
Accepted payments from Inovo
Ekim paid

MF1 July 19 Convention
Did some speeches on LLC

MF2 This project Comm w/ Bijan on wire transfers
To FIG out to Ekim
Accepted payments from Inovo
Ekim paid

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KV - Contract 1 x 200k
Second was 185
Then another for 185
Bijan said no PR or lobbying so sent their money back.
Hired Ekim as consultant.
MF2 - Never asked or doubted.
KV - Trusted Bijan
FIG shut down Nov 30.
MF2 - He has the back up zip file. His FIG materials.
KV - Notice to preserve w/o alerting for inquiry.

KV Contract 3 x 200K
Second was 185
Then another for 185
Bijan said no PR or lobbying so sent their money back.
Hired Ekim as consultant.

MF2 Never asked or doubted.

KV Trusted Bijan
FIG shut down Nov 30.

MF2 He has the back up zip file. His FIG materials.

KV Notice to preserve w/o alerting for inquiry.

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MF2 - Bijan acknowledged
KV - Shut down. Don't delete. End of November.
RK - Where is it?
MF2 - Google business. Archive data. - yes
It sends you an email w/ links
BDS - Google may still have it? Paid up?
MF2 - Yes paid by MF1 still has email.

MF2 Bijan acknowledged

KV Shut down. Don't delete. End of November.

RK Where is it?

MF2 Google business. Archive data. yes
It sends you an email w/ links

BDS Google may still have it? Paid up?

MF2 Yes paid by MF1 still has email.

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RK - Do everything humanly possible.
Stroz?

MF2 - Have access to his email - send terms, names
Searched as many as I could
61 pp emails

KV - Lots of emails say Mike in charge
Lied in meeting w/ us

MF2 - He didn't bring computer to meeting

RK Do everything humanly possible.

Stroz [Strozok?]

MF2 Have access to his email. Send terms, names.

Searched as many as I could

61 pp emails.

KV Lots of emails say Mike in charge.

Lied in meeting w/ us.

MF2 He didn't bring computer to meeting

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RK - op ed.

MF1 - Wanted it to go before the election. Shopped and

Hill picked it up

I've been very strong on Islam. Taxpayer funded charter schools

Russia trying to drive wedge.

Friend in need is a friend indeed - my title

Political motivations on my part. Admin losing our ally NATO
losing to Russia.

Gulen was ~~was~~ creating tension

RK Op Ed

MF1 Wanted it to go before the election. Shopped and

Hill picked it up

I've been very strong on Islam. Taxpayer funded charter schools

Russia trying to drive wedge.

Friend in need is a friend indeed my title.

Political motivations on my part. Admin losing our ally NATO
losing to Russia.

Gulen was creating tension

RK - Connection to Inovo?

MF1 - Paying closer attention to it. Job got me thinking

Bush tour in Texas. Ron White.

Irving Texas Mayor - August - Challenges w/ Gulen charter schools

Book on July 12 -

Wrote several op eds.

RK Connection to Inovo?

MF1 Paying closer attention to it. Job got me thinking

Bush tour in Texas. Ron White

Irving Texas mayor August challenges w/ Gulen charter schools.

Book on July 12

Wrote several op eds.

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RK - whose idea
 MF1 - Jointly to do it. I crafted ideas - He had other people edit
 RK - first draft
 MF1 - He did.
 Talked about ways to do project confidence project.
 MF2 - Ekim isn't comfortable - at
 KV - Given doc to review and edit
 MF1 - Ekim says didn't like article.
 KV - Hank Cox, Sphere Consulting - had role in edit
 Spheredid the shopping of op ed.

RK Whose idea

MF1 Jointly to do it. I crafted ideas He had other people edit

RK First draft

MF1 He did.
 Talked about ways to do project confidence project.

MF2 Ekim isn't comfortable.

KV Given doc to review and edit

MF1 Ekim says didn't like article

KV Hank Cox, Sphere Consulting had role in edit
 Sphere did the shopping of op ed.

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(Have 3pm meeting @ GSA building)

1:07

Break to read documents

1:35

(Have 3pm meeting @ GSA building)

1:07

Break to read documents

1:35

RK - Client? Control of FIG.

KV 35% MF
30% BA → Outstanding Shares

0.5% Dr. Abahi
1.0% Dark shore

25% Oakley formerly

MF1 Bijan is aware of letter.

RK Client? Control of FIG

KV 35% MF.
Outstanding Shares
30% BA.

0.5% Dr. Abahi
1.0% Dark shore

25% Oakley formerly

MF1 Bijan is aware of letter

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RK - Sphere registered. November.
Documents - Gulen, op research, not commercial.
Sphere do?
KV - Clippings + Consulting - Positioned for the documentary.
RK - State lobbying?
RK - Counsel?
Chinese Wall - PI.
Outreach Targets email
Oct 19 - met w/ state officials

RK Sphere registered. November.
Documents Gulen, op research, not commercial.
Sphere do?
KV clippings, consulting. Positioned for the documentary.
RK State lobbying?
RK Counsel?
Chinese wall PI.
Outreach Targets email
Oct 19 Met w/ State officials

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RK - PEOTUS 2
MFI Show McGahn the letter

Brian McCaulley
Bijan
Mike Boston - only talked to Ekim ~ 2x
Paul Bechart → LAB

MFI Spoke w/ Ekim a handful of times

RK PEOTUS?

MFI Show McGahn the letter

Brian McCaulley
Bijan
Mike Boston only talked to Ekim ~ 2x
Paul Bechart > LAB

MFI Spoke w/ Ekim a handful of times

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MF1 Spoke w/ Ekim a handful of times
MF1 Notes prepared for updates we gave
TPs prepared for calls by Bijan
RK - Physical office MF2 cleared it out
MF2 - Laptops were own issue

MF1 Spoke w/ Ekim a handful of times

MF1 Notes prepared for updates we gave.
TPs prepared for calls by Bijan

RK Physical office. MF2 Cleared it out

MF2 Laptops were own issue.

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RK - RT.
MFI - on my own. Not Flynn Intel. - paid speaking
Speaking through LLC - RT anniversary
RK - Anything in US.
MFI - No.
Briefed and debriefed DIA.
Other TV is all on my own
RK - Speaking in Turkey while contract in place
MFI - No.

RK RT

MFI On my own. Not Flynn Intel. paid speaking
Speaking through LLC RT anniversary.

RK Anything in US.

MFI No.
Briefed and debriefed DIA.
Other TV is all on my own

RK Speaking in Turkey while contract in place

MFI No.

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RV - Culman International - special forces transport people
 worked w/ FIG Aviation
 Did LOI.
 Head of FIG Aviation - Flew to Georgia to
 consider HUB.
 DIA - clearance - issues.
 meeting w/ foreign Nationals -
 MFI Anything to consider / concern
 Person: Mike Landrigan @ DIA Head of Security
 Updated clearance in Spring 2016
 DOD to DOJ for clearance.
 All done.

RV Culman International > worked w/ FIG Aviation, Special forces transport people
 Did LOI.
 Head of FIG Aviation Flew to Georgia to
 consider HUB
 DIA clearance issues
 Meeting with foreign nationals.
 MFI Anything to consider / concern.
 Person: Mike Landrigan @ DIA head of security.
 Updated clearance in Spring 2016.
 DOD to DOJ for clearance
 All done.

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All done

KV. 30 days afterwards to disclose OGE
Transition 2 other docs. to come

RK: Bijan documents? Victim started after August / September
He uses Skype a lot

MF1 - Retroactive

RK - Next steps

All done

KV 30 days afterwards to disclose OGE.
Transition 2 other docs. to come

RK Bijan Documents?

Victim started after August / September
He uses Skype a lot

MF1 Retroactive

RK Next steps

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~~RK~~ → Draft notice to employees / Bijan
BS → Scott Bilbray - Tech people @ FIG - go to Google for FIG Docs
- Grab all the data.
RK → RK call Cliff
MF1 → MF1 - to Don McGahn
RK → Jan Barron - call?
KV → KV → Bijan
RK → RK - Fagan ask FCPA Fagell
RK → Lichtenbaum OFAC / FIG advice

RK Draft notice to employees / Bijan

BS Scott Bilbray Tech people @ FIG go to Google for FIG Docs
Grab all the data.

RK RK call Cliff

MF1 MF1 to Don McGahn

RK Jan Barron Call?

KV KV → Bijan

RK RK Fagan [and or ask] FCPA Fagell

RK Lichtenbaum OFAC / FIG advice

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U.S. Department of Justice

Jessie K. Liu
United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

January 13, 2020

Via Email & FedEx

Sidney Powell
3831 Turtle Creek Blvd. #5B
Dallas, TX 75219

Jesse Binnall
Harvey & Binnall, PLLC
717 King Street
Suite 300
Alexandria, VA 22314

Re: *United States v. Michael T. Flynn*, 17-cr-00232 (EGS)

Dear Counsel:

We write to provide a response to your request for our position regarding your suggested amended sentencing dates in this case. In short, we do not oppose a continuance of the due date for your supplemental sentencing memorandum and the date of sentencing. In light of your request, we also ask that the Court schedule a due date for a government reply memorandum one week after the date upon which your supplemental sentencing memorandum is due.

In addition, in light of the fact that you cite our “recent change in position on sentencing” as one of several factors justifying a continuance, we think it would be helpful to clarify that position. As set forth in our submission, we believe that a sentence within the applicable Guidelines range – which includes a possible sentence of probation – is appropriate in this case. Although we assess that the assistance provided by your client does not rise to the level of “substantial assistance” within the meaning of Section 5K1.1 under the totality of the circumstances, as we made clear in both our original and our supplemental sentencing filings, we acknowledge that the Court should take into account your client’s timely assistance to the Special Counsel’s Office (SCO) on a range of issues through the course of 20 interviews as well as his initial cooperation in the *Rafiekian* case, which we described in detail in our December 2018 Addendum. We note that your client’s applicable Guidelines range would be 0 to 6 months of incarceration with or without credit for acceptance of responsibility, and with or without credit for

substantial assistance. Accordingly, there appears to be no dispute as to the applicable sentencing range or the fact that a non-incarceratory sentence would be a reasonable sentence within that range.

Further, as we acknowledged in our filing, your client's lengthy history of military service to the United States is an additional important mitigating factor that we have asked the Court to consider in determining where within the applicable Guidelines range to sentence your client, and we expect that you will continue to provide additional information regarding your client's personal history and characteristics that would be relevant to sentencing under Title 18, United States Code, Section 3553(a)(1). We of course will give careful consideration to that information, and any other relevant information you bring to our attention, in advance of sentencing.

Please do not hesitate to contact us if you have any additional questions.

Sincerely,

JESSIE K. LIU
United States Attorney

By:



Brandon L. Van Grack
Special Assistant United States Attorney

Jocelyn Ballantine
Assistant United States Attorney

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

Plaintiff,

v.

Criminal Action No. 17-232-EGS

MICHAEL T. FLYNN,

Defendant.

[PROPOSED] ORDER

Having considered the Motion for Continuance of Sentencing Date and for Extension of Time to File Defendant's Sentencing Memorandum, it is hereby ORDERED that:

The Sentencing Date be moved to February 27, 2020, and the time for Defendant to file Defendant's Sentencing Memorandum be extended thirty (30) days to be filed on February 21, 2020. The Court will enter a minute order for further deadlines for additional briefing. Mr. Flynn's plea of guilty is hereby withdrawn.

Dated:

Emmet G. Sullivan
United States District Judge

Hovakimian, Patrick (ODAG)

From: Hovakimian, Patrick (ODAG)
Sent: Thursday, January 16, 2020 11:06 AM
To: Rosen, Jeffrey A. (ODAG)
Cc: DuCharme, Seth (ODAG)
Subject: Fwd: Working doc - press conference prep
Attachments: OffTopicQs_WorkingDoc_Jan2020.docx; ATT000001.htm

Patrick Hovakimian

(b) (5)

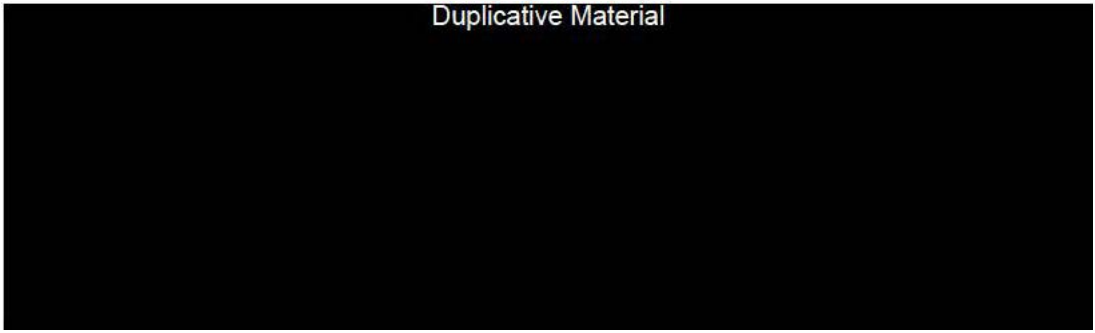
Begin forwarded message:

From: "Kupec, Kerri (OPA)" <kkupec@jmd.usdoj.gov>
Date: January 16, 2020 at 11:05:44 AM EST
To: "Hovakimian, Patrick (ODAG)" <phovakimian4@jmd.usdoj.gov>
Subject: Fwd: Working doc - press conference prep

Begin forwarded message:

From: "Kupec, Kerri (OPA)" <kkupec@jmd.usdoj.gov>
Date: January 12, 2020 at 5:54:40 PM EST
To: "Ahern, Bill (OAG)" <bahern@jmd.usdoj.gov> Attorney General Barr
Cc: "Rabbitt, Brian (OAG)" <brabbitt@jmd.usdoj.gov>, "Levi, William (OAG)" <wlevi@jmd.usdoj.gov>
Subject: Working doc - press conference prep

Duplicative Material



(b) (5)



From: DCD ECFNotice@dcd.uscourts.gov
<DCD ECFNotice@dcd.uscourts.gov>
Sent: Thursday, January 16, 2020 11:50 AM
To: DCD ECFNotice@dcd.uscourts.gov
Subject: Activity in Case 1:17-cr-00232-EGS USA v. FLYNN Order

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of**

record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 1/16/2020 at 11:50 AM EDT and filed on 1/16/2020

Case Name: USA v. FLYNN

Case Number: 1:17-cr-00232-EGS

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER as to MICHAEL T. FLYNN granting [151] Unopposed Motion to Continue; deferring ruling on [151] Defendant's Motion to Withdraw Plea. The parties shall adhere to the following briefing schedule: (1) Mr. Flynn shall file his "Supplemental Motion to Withdraw for alternative additional reasons" by no later than 12:00 PM on January 22, 2020; (2) the government shall file its response to Mr. Flynn's motion and supplemental motion by no later than 12:00 PM on February 5, 2020; and (3) Mr. Flynn shall file his reply brief by no later than 12:00 PM on February 12, 2020. The Court hereby reschedules the sentencing hearing for February 27, 2020 at 11:00 AM in Courtroom 24A. Signed by Judge Emmet G. Sullivan on 1/16/2020. (lcegs3)

1:17-cr-00232-EGS-1 Notice has been electronically mailed to:

Jocelyn S. Ballantine (b)(6) per EOUSA

USADC.CriminalDocket@usdoj.gov

Brandon Lang Van Grack (b)(6) per NSD

(b)(6) per (b)(6) per

Jesse R. Binnall jbinnall@harveybinnall.com

Tricia@federalappeals.com, dfox@harveybinnall.com,

sidney@federalappeals.com

Zainab Naeem Ahmad (b)(6) per

W. William Hodes wwh@hodeslaw.com

Lindsay R. McKasson lmckasson@harveybinnall.com

Molly McCann (b)(6)

1:17-cr-00232-EGS-1 Notice will be delivered by other means to::

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

3 UNITED STATES OF AMERICA,)
4 v.) Criminal No. 17-232
5 MICHAEL T. FLYNN,)
6 Defendant.) Washington, D.C.
Friday, December 1, 2017

7
8 TRANSCRIPT OF PLEA HEARING
9 BEFORE THE HONORABLE RUDOLPH CONTRERAS
UNITED STATES DISTRICT JUDGE

10 APPEARANCES:

11 For the Government: Brandon Lang Van Grack, Esq.
12 Zainab N. Ahmad, Esq.
13 U.S. DEPARTMENT OF JUSTICE
14 Special Counsel's Office
950 Pennsylvania Avenue, NW
Washington, DC 20004

15 For the Defendant: Robert K. Kelner, Esq.
16 COVINGTON & BURLING
1201 Pennsylvania Avenue, NW
Washington, DC 20004
-and-
17 Stephen Pierce Anthony
18 COVINGTON & BURLING LLP
One City Center
850 Tenth Street, NW
19 Suite 326N
Washington, DC 20001

20 Also Present: Special Agent William Barnett

21

22 Court Reporter: PATRICIA KANESHIRO-MILLER, RMR, CRR
23 United States Courthouse
333 Constitution Avenue, NW
24 Washington, D.C. 20001

25 Proceedings reported by stenotype shorthand.
Transcript produced by computer-aided transcription.

1 P R O C E E D I N G S

2 (10:34 a.m.)

3 THE DEPUTY CLERK: This is Criminal Case 17-232,
4 United States v. Michael T. Flynn.

5 Counsel, please step forward to the podium and state
6 your appearances for the record.

7 MR. VAN GRACK: Good morning, Your Honor. Brandon
8 Van Grack and Zainab Ahmad on behalf of the United States.

9 THE COURT: Good morning.

10 MR. VAN GRACK: And with us at counsel table is
11 Special Agent William Barnett.

12 THE COURT: Good morning.

13 MR. KELNER: Good morning, Your Honor. Robert Kelner
14 with Covington & Burling for the defendant, Michael T. Flynn.
15 I'm joined by Stephen Anthony from Covington & Burling.

16 THE COURT: Good morning.

17 Give me a moment to look at the paperwork.

18 (Pause)

19 THE COURT: Are we ready to get started?

20 MR. KELNER: Yes, Your Honor.

21 MR. VAN GRACK: Yes, Your Honor.

22 THE COURT: Why don't you guys come to the podium.
23 I gather that Mr. Flynn wishes to enter a plea of
24 guilty; is that correct?

25 MR. KELNER: Yes, Your Honor.

1 THE COURT: Okay. Mr. Flynn, I assume you have never
2 been through this process before.

3 THE DEFENDANT: Never, Your Honor.

4 THE COURT: Let me give you the most important
5 particulars of how we are going to proceed.

6 There are going to be a number of questions. As part
7 of this process, you're going to be giving up a number of
8 your rights, both statutory and constitutional, so it is
9 critical that you understand everything that goes on here
10 because I have to determine at the end whether you have given
11 up those rights knowingly, voluntarily, and with the advice
12 of your counsel.

13 If there is anything I ask you that you don't
14 understand, feel free to ask me to clarify it or, better yet,
15 take a moment to discuss the issue with your counsel in
16 private, if necessary.

17 You got that?

18 THE DEFENDANT: Thank you.

19 THE COURT: Okay. We're going to swear you in.

20 (Defendant sworn)

21 THE DEPUTY CLERK: Can you please state your name for
22 the record.

23 THE DEFENDANT: Michael Thomas Flynn.

24 THE COURT: Mr. Flynn, do you understand that you're
25 now under oath?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: And that any answers that you give can be
3 later used against you in this or another proceeding? Do you
4 understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: And that if you do not answer my
7 questions truthfully, you could be prosecuted for perjury or
8 making a false statement? Do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: As I said, I'm going to ask you a number
11 of questions. If you choose to enter a plea of guilty today,
12 I need to know that you're entering that plea of guilty
13 knowingly, voluntarily, and intelligently, with the advice of
14 your attorney.

15 As I said, if you don't understand my question or
16 anything else about these proceedings, please tell me, and I
17 will try to explain. But most importantly, you may consult
18 with your attorney privately, if necessary, at any point in
19 time.

20 I'm going to start with the routine questions. How
21 old are you, sir?

22 THE DEFENDANT: 58.

23 THE COURT: I assume you can read and write English.

24 THE DEFENDANT: Yes.

25 THE COURT: How far did you go in school?

1 THE DEFENDANT: Master's level.

2 THE COURT: Okay. And I assume you were born in this
3 country.

4 THE DEFENDANT: Yes.

5 THE COURT: All right. Have you ever been treated
6 for any type of mental illness or psychological or emotional
7 problem?

8 THE DEFENDANT: No.

9 THE COURT: All right. Have you ever been treated
10 for addiction to narcotic drugs or alcohol?

11 THE DEFENDANT: No.

12 THE COURT: Are you, in fact, addicted to narcotic
13 drugs or alcohol?

14 THE DEFENDANT: No.

15 THE COURT: Are you under the influence today of any
16 medicine or other narcotic that might impact your ability to
17 understand what's going on here today?

18 THE DEFENDANT: No, Your Honor.

19 THE COURT: Are you ill in any way that might impact
20 your ability to understand what's going on here today?

21 THE DEFENDANT: I'm not.

22 THE COURT: Does defense counsel have any question
23 whatsoever as to the defendant's competency to pled at this
24 time?

25 MR. KELNER: No, Your Honor.

1 MR. ANTHONY: No, Your Honor.

2 THE COURT: Mr. Flynn, have you had sufficient time
3 to consult with your attorneys about this case?

4 THE DEFENDANT: I have.

5 THE COURT: Are you satisfied with the services that
6 they have provided you?

7 THE DEFENDANT: Yes.

8 THE COURT: Have you had the opportunity to discuss
9 with them the charge against you and whether or not you
10 should enter a plea of guilty?

11 THE DEFENDANT: I have.

12 THE COURT: Counsel, have you had sufficient time to
13 review and investigate the law and the facts of this case?

14 MR. KELNER: Yes, Your Honor.

15 THE COURT: In your opinion, does the defendant
16 understand the nature of the charge pending against him?

17 MR. KELNER: Yes, Your Honor.

18 THE COURT: Do you believe that he is mentally
19 competent to enter this plea?

20 MR. KELNER: Yes, Your Honor.

21 THE COURT: Mr. Flynn, as I mentioned earlier, before
22 I accept your plea, I need to explain to you certain rights.
23 You have to make sure that you understand them because you're
24 going to be waiving a significant number of them.

25 THE DEFENDANT: Uh-huh.

1 THE COURT: Please listen closely. Be patient
2 because it is going to take a little bit of time. And again,
3 let me know if you do not understand anything. And finally,
4 again, at any point in time, if you need to consult with your
5 attorneys, please take the time to do that.

6 Do you understand that the charge against you is a
7 felony charge?

8 THE DEFENDANT: I do.

9 THE COURT: Because it is a felony charge, you have a
10 constitutional right to have the members of a grand jury
11 indict and charge you with that felony. A federal grand jury
12 is composed of at least 16 and not more than 23 citizens of
13 the District of Columbia. In order to charge you, at least
14 12 of them must find that there is probable cause to believe
15 that a crime has been committed and that you were the person
16 that committed that crime. And if they charged you, they
17 would list the charges in a written indictment. If you do
18 not give up your right to be charged by grand jury
19 indictment, the government cannot file felony charges against
20 you on its own.

21 Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: In this case, the felony charges against
24 you have been brought by the Special Counsel's Office by the
25 filing of an Information.

1 If you do not give up your right to be charged by
2 grand jury indictment, the government may present the case to
3 the grand jury and ask them to indict you, and a grand jury
4 might indict you, but then there is always the possibility
5 that they won't.

6 Do you understand that?

7 THE DEFENDANT: I do.

8 THE COURT: Okay. If you do give up your right to be
9 charged by a grand jury in an indictment, the case will
10 proceed against you on the Special Counsel's Office
11 Information, just as though you had been indicted. Do you
12 understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: Mr. Flynn, do you understand your right
15 to indictment by a grand jury?

16 THE DEFENDANT: Yes.

17 THE COURT: Have you discussed giving up your right
18 to indictment by the grand jury with your attorneys?

19 THE DEFENDANT: I have.

20 THE COURT: Have any threats or promises other than
21 the promises made in the plea agreement been made to you to
22 induce you to give up your right to the indictment?

23 THE DEFENDANT: No.

24 THE COURT: I gather there's a written waiver. Let
25 me get that in front of me.

1 Could you just confirm that that is your signature on
2 that document?

3 Is that a "yes"?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay. The signature on that document
6 waiving your right to a grand jury, it's yours; correct?

7 THE DEFENDANT: Yes.

8 THE COURT: Counsel, is there any reason the
9 defendant should not waive his right to a grand jury?

10 MR. KELNER: No.

11 THE COURT: I find that the waiver of indictment by
12 grand jury is knowingly and voluntarily made, and it is
13 accepted, and the signed waiver will be filed.

14 Mr. Flynn, you have the right to plead not guilty to
15 any offense charged against you. Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: You would have the right to challenge the
18 government's case against you by seeking to have the charges
19 dismissed or having the evidence against you suppressed or
20 thrown out. Do you understand you would have that right if
21 you did not waive them?

22 THE DEFENDANT: Yes.

23 THE COURT: All right. Under the Constitution and
24 the laws of the United States, you have the right to a jury
25 trial in this case. That means that 12 citizens of the

1 District of Columbia would sit as the jury and determine
2 whether you are guilty or not guilty based upon evidence
3 presented in this courtroom.

4 Do you understand your right to a jury trial?

5 THE DEFENDANT: I do, Your Honor.

6 THE COURT: If you choose to go to trial, you would
7 have a right to be represented by your attorneys at that
8 trial. Do you understand that?

9 THE DEFENDANT: I do.

10 THE COURT: At a trial, you would have the right
11 through your lawyers to confront and cross-examine any
12 witnesses against you. Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: You would also have the right to present
15 your own witnesses, and you would have the right to subpoena
16 them to require them to testify in your defense at trial. Do
17 you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: At a trial you would have the right to
20 testify yourself and to present evidence on your behalf if
21 you wanted to, but you would not have to testify or present
22 any evidence if you did not want to because you cannot be
23 forced to incriminate yourself, that is, to present evidence
24 of your own guilt. Do you understand that?

25 THE DEFENDANT: Yes.

1 THE COURT: If you chose not to testify or to put on
2 any evidence at a trial, those choices could not be used
3 against you to infer or suggest your guilt. Do you
4 understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: Unless and until I accept your guilty
7 plea, if you choose to enter one today, you are presumed by
8 the law to be innocent because it is the government's burden
9 through competent evidence to prove your guilt beyond a
10 reasonable doubt, and until it does, you cannot be convicted
11 at trial. Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: If you went to trial and you were
14 convicted, you would have the right to appeal your conviction
15 to the Court of Appeals and to have a lawyer help you prepare
16 that appeal. Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Do you understand that by pleading
19 guilty, you will be generally giving up your rights to
20 appeal? Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: Now, to summarize, do you understand that
23 if you plead guilty in this case and I accept your guilty
24 plea, you will give up all the rights I just explained to you
25 because there will not be any trial and there will probably

1 be no appeal and you will waive your right not to incriminate
2 yourself, because in order for me to accept your plea, you
3 have to admit your guilt. Do you understand that?

4 THE DEFENDANT: I do.

5 THE COURT: Mr. Flynn, do you wish to give up your
6 rights to a trial, your right to an appeal in most
7 circumstances, and all of the rights I have explained that
8 you have if your case went to trial? Do you wish to do that?

9 THE DEFENDANT: Yes.

10 THE COURT: All right. And there is a signed waiver
11 of trial by jury. If you could confirm that that is your
12 signature on that page.

13 It is?

14 THE DEFENDANT: Yes.

15 THE COURT: Counsel, is there any reason the
16 defendant should not waive a jury trial and his right against
17 self-incrimination as to the charge to which a plea of guilty
18 will be made?

19 MR. KELNER: No, Your Honor.

20 MR. VAN GRACK: No, Your Honor.

21 THE COURT: I find that the waiver is knowingly and
22 voluntarily made, and it is accepted, and the signed waiver
23 will be filed, as well.

24 Mr. Flynn, have you and your attorney received a copy
25 of the Information in this case, which contains the written

1 charges against you?

2 THE DEFENDANT: Yes.

3 THE COURT: Have you read that document and has your
4 lawyer explained it to you, the charges contained therein?

5 THE DEFENDANT: Yes.

6 THE COURT: Have you had the opportunity to discuss
7 the charges and the case in general fully with your
8 attorneys?

9 THE DEFENDANT: I have.

10 THE COURT: You understand that the Information
11 charges you with the offense of making false statements in a
12 matter within the jurisdiction of the Executive Branch of the
13 Government of the United States, in violation of
14 18 U.S.C. § 1001? Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Before I accept your guilty plea, I must
17 make a determination that there's a factual basis for that
18 plea.

19 I'm going to have the government come up and make a
20 presentation as to what it believes it can prove beyond a
21 reasonable doubt at trial. I know that there is a written
22 signed statement of offense, as well. So if you can just
23 confirm that that is your signature on page 6 of that
24 document.

25 It is?

1 THE DEFENDANT: It is.

2 THE COURT: The government's presentation is going to
3 largely duplicate that, but I still need you to listen
4 closely, and at the end of it, if you disagree with anything
5 they have said -- I will give you another opportunity to
6 disagree with anything in the written document -- you need to
7 tell me. So please listen carefully, okay?

8 THE DEFENDANT: Yes.

9 THE COURT: Go ahead and have a seat.

10 Let me hear from the government. Why don't you start
11 with the elements of the charges.

12 MR. VAN GRACK: Your Honor, the elements for
13 violating 18 U.S.C. § 1001 are that the defendant made a
14 false statement that was material, the defendant acted
15 knowingly and willfully, and the statement pertained to a
16 matter within the jurisdiction of the Executive Branch of the
17 United States Government.

18 THE COURT: Why don't you go through the facts that
19 you think you can prove at trial.

20 MR. VAN GRACK: That the defendant made material
21 false statements and omissions during an interview with the
22 Federal Bureau of Investigation on January 24, 2017, in
23 Washington, D.C.

24 At the time of the interview, the FBI had an open
25 investigation into Russia's efforts to interfere in the 2016

1 presidential election, including the nature of any links or
2 coordination between individuals associated with Russia and
3 the campaign of President Donald Trump.
4 Specifically, during that January 24th interview, the
5 defendant falsely stated that he did not ask Russia's
6 Ambassador to the United States to refrain from escalating
7 the situation in response to sanctions that the United States
8 had imposed against Russia. The defendant also falsely
9 stated that he did not remember a follow-up conversation in
10 which the Russian Ambassador stated that Russia had chosen to
11 moderate its response to those sanctions as a result of the
12 defendant's request. In truth and in fact, the defendant
13 then and there knew that:

14 On or about December 29, 2016, the day sanctions
15 against Russia were announced, the defendant called a senior
16 official of the Presidential Transition Team, who was with
17 other senior members of the Presidential Transition Team at
18 the Mar-a-Lago resort, to discuss what to communicate to the
19 Russian Ambassador about sanctions. On that call, the
20 defendant and the official discussed sanctions, including
21 that members of the transition team at Mar-a-Lago did not
22 want Russia to escalate the situation.

23 Immediately after that phone call, the defendant
24 called the Russian Ambassador and requested that Russia not
25 escalate the situation and only respond to the U.S. sanctions

1 in a reciprocal manner.

2 Shortly after his phone call with the Russian
3 Ambassador, the defendant spoke again with the senior
4 official to report on the substance of his call with the
5 Russian Ambassador, including their discussion of sanctions.
6 Two days later, the Russian Ambassador called the defendant
7 and informed him that Russia had chosen not to retaliate in
8 response to the defendant's request. After that phone call,
9 the defendant spoke with senior members of the transition
10 team about his conversations with the Russian Ambassador
11 regarding sanctions and Russia's decision not to escalate the
12 situation.

13 During that same January 24th interview with the FBI,
14 the defendant made additional false statements about his
15 calls to Russia and other countries regarding a resolution
16 submitted to the United Nations Security Council on
17 December 24, 2016. The defendant falsely stated that he only
18 asked the countries' positions on the resolution and that he
19 did not request that any of the countries take any particular
20 action on the resolution. The defendant also falsely stated
21 that the Russian Ambassador never described to him Russia's
22 response to his request. In truth and in fact, the defendant
23 then and there knew that:

24 On or about December 22, 2016, a very senior member
25 of the transition team directed the defendant to contact

1 officials from foreign governments, including Russia, to
2 learn where each government stood on the resolution and to
3 influence those governments to delay the vote or defeat the
4 resolution.

5 On or about December 26, 2016, the defendant
6 contacted the Russian Ambassador about the pending vote. The
7 defendant requested that Russia vote against or delay the
8 resolution.

9 The next day the defendant again spoke with the
10 Russian Ambassador, who informed him that if it came to a
11 vote, Russia would not vote against the resolution.

12 In addition, on March 7, 2017, the defendant filed
13 multiple documents with the Department of Justice pursuant to
14 the Foreign Agents Registration Act pertaining to a project
15 performed by him and his company for the principal benefit of
16 the Republic of Turkey. In those filings, the defendant made
17 materially false statements and omissions, including by
18 falsely stating that his company did not know whether or the
19 extent to which the Republic of Turkey was involved in the
20 project; that the project was focused on improving U.S.
21 business organizations' confidence regarding doing business
22 in Turkey; and an op-ed by the defendant published on
23 November 8, 2016 was written at his own initiative. In
24 addition, the defendant omitted in those filings that
25 officials from the Republic of Turkey provided supervision

1 and direction over the project.

2 THE COURT: Thank you.

3 MR. VAN GRACK: Your Honor, I want to correct two
4 dates that I read: That the resolution before the United
5 States Security Council was submitted on December 24, 2016;
6 and that the second call that the defendant made with the
7 Russian Ambassador about that UN vote was on December 23rd.

8 THE COURT: All right. Thank you.

9 Mr. Flynn, if you could come back to the podium,
10 please.

11 Are those dates correct in the written statement?

12 MR. VAN GRACK: Yes, they are, Your Honor.

13 THE COURT: So they don't need to be corrected there,
14 as well.

15 MR. VAN GRACK: No, Your Honor.

16 THE COURT: Okay.

17 Mr. Flynn, now that you've read the written statement
18 of facts, you've heard the government's oral presentation,
19 are there any corrections or errors that you need to point
20 out?

21 THE DEFENDANT: Nothing that I heard, Your Honor, no.

22 THE COURT: Or that you read?

23 THE DEFENDANT: Or that I read.

24 THE COURT: Is that factual summary true and correct?

25 THE DEFENDANT: It is.

1 THE COURT: Did you, in fact, do what the government
2 has stated that it can prove at trial?

3 THE DEFENDANT: Yes.

4 THE COURT: Mr. Flynn, there is a written letter
5 outlining the plea agreement in this case. Do you have a
6 copy of that agreement?

7 THE DEFENDANT: Yes.

8 THE COURT: Have you read it carefully?

9 THE DEFENDANT: Yes.

10 THE COURT: Have you had the chance to discuss it
11 fully with your attorneys?

12 THE DEFENDANT: I have.

13 THE COURT: Do you understand it?

14 THE DEFENDANT: I do.

15 THE COURT: If you can confirm that that is your
16 signature on page 10 of that document.

17 It is?

18 THE DEFENDANT: Yes.

19 THE COURT: Okay. By signing that agreement, are you
20 accepting and agreeing to the terms of the agreement?

21 THE DEFENDANT: I am.

22 THE COURT: Okay. Is your willingness to plead
23 guilty here today the result of the discussions you had with
24 the government through your attorneys?

25 THE DEFENDANT: Yes.

1 THE COURT: Okay. Does that written agreement
2 represent the entire understanding you have with the
3 government?

4 THE DEFENDANT: Yes, I believe it does.

5 THE COURT: Okay. There are no side oral agreements?

6 THE DEFENDANT: None.

7 THE COURT: Does the government counsel agree that
8 that is correct?

9 MR. VAN GRACK: Yes, Your Honor.

10 THE COURT: Okay. Does government counsel wish to
11 summarize it or file the written agreement and rely upon it?

12 MR. VAN GRACK: File the written agreement and rely
13 on it.

14 THE COURT: Okay. We will go ahead and do that and
15 get that filed.

16 Mr. Flynn, as I understand it, you're proposing to
17 plead guilty to the offense of making false statements in a
18 matter within the jurisdiction of the Executive Branch of the
19 Government of the United States, in violation of
20 18 U.S.C. § 1001.

21 Do you understand that if I accept your guilty plea
22 in this case, you could receive a maximum sentence of
23 5 years' imprisonment. Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you also understand that I can impose

1 a fine of up to \$250,000?

2 THE DEFENDANT: I do.

3 THE COURT: Do you also understand that I could
4 impose a fine sufficient to pay the government the cost of
5 any imprisonment, term of supervised release, or period of
6 probation?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you also understand that although no
9 restitution issues have been brought to my attention that I
10 have an independent duty to determine whether any restitution
11 needs to be made if anyone has sustained a loss as a result
12 of your actions, and I would be required by law to impose
13 that amount of restitution?

14 Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand, also, that you would
17 be obligated to pay any applicable interest or penalties on
18 fines or restitution that are not timely made? Do you
19 understand that?

20 THE DEFENDANT: I do.

21 THE COURT: Do you also understand that you would be
22 subject to a term of supervised release not to exceed
23 3 years? Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: And what that means is that if you're

1 sent to prison that upon your release you will be on
2 supervision under certain circumstances and rules with which
3 you must comply. And if you violate those conditions and
4 rules, you could be sent back to prison for an additional
5 period of time. Do you understand --

6 THE DEFENDANT: Yes.

7 THE COURT: -- how supervised release works?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you also understand, although no prior
10 criminal history has been brought to my attention, that if
11 the probation office determines you have two or more
12 convictions for a crime of violence or felony drug offenses,
13 you may be subject to higher penalties provided in the career
14 offender statutes in the sentencing guidelines? Do you
15 understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you also understand that you would be
18 subject to a special assessment of \$100 for a felony offense,
19 as required by statute? Do you understand that?

20 THE DEFENDANT: I do, Your Honor.

21 THE COURT: And again, although no forfeiture issues
22 have been brought to my attention, do you understand that if
23 they are applicable, the Court can require you to forfeit
24 certain property to the government? Do you understand that?

25 THE DEFENDANT: I do.

1 THE COURT: Mr. Flynn, do you understand all of these
2 possible consequences of your plea agreement?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: I'm going to review something with you
5 that I'm sure your counsel has discussed with you, and that
6 is the sentencing guidelines.

7 This case falls within the Sentencing Reform Act of
8 1984, by which Congress created the United States Sentencing
9 Commission. The Sentencing Commission has issued detailed
10 guidelines for judges such as myself to consider in
11 determining the sentence in a criminal case like this. The
12 Commission has set sentencing ranges for specific offenses,
13 and those ranges are contained in the guidelines manual.
14 However, in light of Supreme Court decisions, the sentencing
15 guidelines are not mandatory, they are advisory, but they
16 must be consulted by the Court in the first instance in
17 determining the appropriate sentence. Hence, I will assess
18 and determine the proper sentence in this case by reference
19 to and in consideration of the guidelines. And while the
20 Court, prosecutor, your counsel, and even you have some idea
21 of what that guidelines range will be based on the charge and
22 based upon your prior criminal history, nothing will be
23 certain until the probation office conducts its investigation
24 and advises me what they believe the sentencing guideline
25 range is.

1 Do you understand that process?

2 THE DEFENDANT: I do.

3 THE COURT: The probation office will create a
4 presentence report that contains their conclusions as to what
5 the range is. That report will come to me, and it would also
6 go to both sets of attorneys, and all of you will have a
7 chance to make objections to portions of it or request
8 changes. Your attorney will go over it with you, and then at
9 the time of the sentencing I will hear from both sets of
10 attorneys, and it is only then that I will make a
11 determination what your advisory sentence and guidelines
12 range is.

13 Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Once I do that in accordance with the
16 sentencing guidelines, I'm still permitted, however, to
17 impose a sentence outside of that range, either above or
18 below that range.

19 Do you understand that?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: However, I cannot sentence you to more
22 than the statutory period which I explained a little earlier.

23 Have you and your attorney talked about the
24 sentencing guidelines and how they might apply to your case?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Do you understand that I cannot determine
2 what the sentence would be under the guidelines until I have
3 received a presentence report from the probation office and
4 the government and your attorneys have had the opportunity to
5 challenge the facts reported by the probation officer?

6 Do you understand that?

7 THE DEFENDANT: Yes, I understand that.

8 THE COURT: Do you understand that after I have
9 decided what guidelines range applies in your case, I still
10 have the authority in my discretion to impose a sentence that
11 is more severe or less severe than the sentence called for by
12 the guidelines? Do you understand that?

13 THE DEFENDANT: I do, Your Honor.

14 THE COURT: Do you also understand that parole has
15 been abolished for federal charges and that if you are
16 sentenced to prison that you will serve the sentence I
17 impose, with a possible modest reduction for good time
18 credit, but that you will not be released early on parole as
19 used to be the case? Do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you also understand that the offense
22 to which you are proposing to plead guilty is a felony
23 offense; and that if your plea is accepted and you're found
24 guilty of that offense, then, depending upon the specific
25 circumstances and the jurisdiction in which you reside, such

1 a finding may deprive you of valuable civil rights, such as
2 the right to vote, the right to hold public office, the right
3 to serve on a jury, and the right to possess any kind of
4 firearm?

5 Do you understand that?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you also understand that under some
8 circumstances, not only you, but also the government may have
9 the right to appeal any sentence that I impose if the
10 government believes that the sentence is improper or
11 unlawful? Do you understand that?

12 THE DEFENDANT: I do.

13 THE COURT: Do you understand that under this plea
14 agreement you are generally giving up your right to appeal
15 any conviction or sentence I impose? Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: There's very limited exceptions to what
18 you can appeal in this matter. Do you understand that?

19 THE WITNESS: Yes.

20 THE COURT: And you've specifically discussed with
21 your attorneys the waiver of the right-to-appeal rights?

22 THE DEFENDANT: Yes.

23 THE COURT: All right. Do you understand that if the
24 proper guideline range that I determine is higher than you
25 expected, as I warn you it could be, or the sentence I impose

1 is more severe than you expected -- again, I warn you it
2 could be -- you will still be bound by your guilty plea and
3 will have no right to withdraw it? Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you understand that if I do not accept
6 any sentencing recommendations made in the plea agreement or
7 made by the lawyers at the time of sentencing, you will still
8 be bound by your guilty plea and will have no right to
9 withdraw it? Do you understand that?

10 THE DEFENDANT: I do.

11 THE COURT: The plea agreement includes an agreement
12 by you to cooperate with the United States and an agreement
13 by the U.S. to make a motion pursuant to Sentencing Guideline
14 5K1.1 if, but only if, the United States determines that you
15 have provided substantial assistance in the investigation or
16 prosecution of another person.

17 Do you understand that the decision whether that
18 motion under 5K is filed is within the sole discretion of the
19 United States, and neither you nor the Court can require the
20 government to file that motion? Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: So if the government decides that your
23 cooperation is not enough to justify them filing that motion,
24 that is their call, it is not mine and it is not yours. Do
25 you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you also understand that the Court is
3 not required to reduce your sentence even if the government
4 files that motion? That is my decision to make, not theirs.
5 Do you understand that?

6 THE DEFENDANT: I do.

7 THE COURT: Finally, to repeat again, do you
8 understand that under the law, I must consider and take into
9 account the sentencing guidelines, along with all the other
10 relevant factors, but that the guidelines are advisory,
11 they're not binding on me, and ultimately the appropriate
12 sentence will be determined in my discretion, considering the
13 sentencing guidelines and all of the other relevant factors
14 under the statute?

15 Do you understand that?

16 THE DEFENDANT: I do, Your Honor.

17 THE COURT: Mr. Flynn, has anyone, including your
18 attorney, the federal agents, the prosecutor, or any other
19 person in which you have come in contact promised or
20 suggested to you that merely because you are pleading guilty
21 I will give you a lighter sentence?

22 THE DEFENDANT: No.

23 THE COURT: Has anyone made any promises to you as to
24 what sentence I will impose in this case if I accept your
25 guilty plea?

1 THE DEFENDANT: They have not.

2 THE COURT: Do you understand that at this time I do
3 not know what sentence I will impose in your case since I
4 have not yet heard from the lawyers or from the probation
5 office?

6 THE DEFENDANT: Yes.

7 THE COURT: Has anyone made any promises to you in
8 connection with your guilty plea other than those that are
9 contained in the written plea agreement?

10 THE DEFENDANT: They have not.

11 THE COURT: Has anyone forced, threatened, or coerced
12 you in any way into entering this plea of guilty?

13 THE DEFENDANT: No.

14 THE COURT: Mr. Flynn, has there been anything about
15 your plea agreement or these proceedings that you do not
16 understand or that you wish to consult with your attorneys
17 about?

18 THE DEFENDANT: There isn't.

19 THE COURT: Is there anything that you want to ask me
20 before you make a decision whether or not you want to plead
21 guilty or go to trial?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: Counsel for both sides, is there anything
24 else we need to cover before taking the plea?

25 MR. KELNER: No, Your Honor.

1 MR. ANTHONY: No, Your Honor.

2 MR. VAN GRACK: No, Your Honor.

3 THE COURT: Mr. Flynn, are you now ready to make a
4 decision about whether you wish to enter a plea of guilty or
5 whether you, instead, wish to go to trial?

6 THE DEFENDANT: I am.

7 THE COURT: Mr. Flynn, how do you plead to the charge
8 in Count One of the Information, making false statements, in
9 violation of 18 U.S.C. § 1001; do you plead guilty or not
10 guilty?

11 THE DEFENDANT: Guilty, Your Honor.

12 THE COURT: Are you entering this plea of guilty
13 voluntarily and of your own free will?

14 THE DEFENDANT: I am.

15 THE COURT: Are you entering this plea of guilty
16 because you are guilty and for no other reason?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Defense counsel, do you know of any
19 reason why the defendant should not plead guilty to the
20 charge?

21 MR. KELNER: No, Your Honor.

22 MR. VAN GRACK: No, Your Honor.

23 THE COURT: It is the finding of this Court in the
24 case of *United States v. Michael T. Flynn*, Criminal Number
25 17-232, that the defendant, Michael Flynn, is fully competent

1 and capable of making a decision today and entering an
2 informed plea; that he understands the nature of the charges
3 against him and the consequences of what he is doing; that he
4 is acting voluntarily and of his own free will; and that
5 there is an adequate factual basis for his plea. Therefore,
6 the plea of guilty is accepted, and I find you guilty as
7 charged in Count One of the Information.

8 Mr. Flynn, as I explained to you a little bit
9 earlier, there is going to be a presentence investigation
10 conducted and a report prepared by the probation office to
11 assist me in the sentencing. You are going to be interviewed
12 by a probation officer, and you are required to give truthful
13 information for that report. Your attorney may be present if
14 you wish -- and that is generally a good idea -- and then you
15 and your attorney will be permitted to read the presentence
16 report, a draft of it, before the sentencing hearing, and
17 make any objections to any errors that you believe are in
18 that report. And then at the sentencing hearing, both you
19 and your attorney will be given an opportunity to speak on
20 your behalf.

21 Do you understand that process?

22 THE DEFENDANT: I do.

23 THE COURT: I assume that we're deferring sentencing
24 for the time being?

25 MR. VAN GRACK: Yes, Your Honor.

1 THE COURT: Okay. How do you want to proceed as far
2 as setting a status report --

3 MR. VAN GRACK: Yes, Your Honor, we've spoken with
4 defense counsel, and we would like to schedule a status date
5 in three months.

6 THE COURT: Okay. And defer the presentence
7 investigation?

8 MR. VAN GRACK: Yes, Your Honor.

9 THE COURT: Okay.

10 THE DEPUTY CLERK: Status date is February 1, 2018.

11 THE COURT: 10 a.m.

12 A status report or status hearing?

13 Mr. VAN GRACK: A status report.

14 THE COURT: Okay. Status report, February 1, 2018.

15 I assume the government is not requesting that we
16 hold him prior to that?

17 MR. VAN GRACK: No, Your Honor.

18 THE COURT: Okay. I will agree with that.

19 I'm going to have you report weekly by phone, and to
20 live at the address that is in the pretrial materials. Is
21 that correct?

22 MR. ANTHONY: Yes, that's the address, Your Honor.

23 THE COURT: I have signed the booking documents.

24 The one last thing I need to advise you, Mr. Flynn,
25 is when we do finally set a sentencing date, you are required

1 to appear for that sentencing, and the failure to appear as
2 required is a separate criminal offense for which you could
3 be sentenced to imprisonment. All the conditions that you
4 will be released upon now apply, and the penalties for
5 violating those conditions can be severe, and that committing
6 a crime while on release can subject you to more severe
7 punishment than would otherwise be the case if you were not
8 under the release conditions.

9 Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: Counsel, is there anything else we need
12 to cover?

13 MR. KELNER: No, Your Honor.

14 Government?

15 MR. VAN GRACK: No, Your Honor.

16 THE COURT: Thank you. You're excused.

17 (Proceedings adjourned at 11:16 a.m.)
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CERTIFICATE OF OFFICIAL COURT REPORTER

I, Patricia A. Kaneshiro-Miller, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/ Patricia A. Kaneshiro-Miller

PATRICIA A. KANESHIRO-MILLER

December 1, 2017

DATE

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

Plaintiff,

v.

Criminal Action No. 17-232-EGS

MICHAEL T. FLYNN,

Defendant.

**SUPPLEMENTAL BRIEF
IN SUPPORT OF MOTION TO WITHDRAW PLEA OF GUILTY**

Michael T. Flynn “Mr. Flynn” submits this supplemental brief to clarify and supplement his Motion to Withdraw Plea of Guilty.

To clarify the sequence of events, especially Mr. Van Grack’s responsibility for the redline draft that deleted the assertion that Mr. Flynn “then and there knew” there were “false statements” in the FARA registration form, ECF No. 151 at 12, also attached here as Exhibit 1 (highlighting added). The defense provides the following emails (attached as Exhibits 2-4):

- Monday, Nov. 27, 2017, at 6:21 pm: Brandon Van Grack sent the proposed plea documents to Covington & Burling LLP (“Covington”) lawyers.
- Monday, Nov. 27, 2017, at 6:31 pm: Robert Kelner passed the draft plea documents to the Covington team.
- Tuesday, Nov. 28, 2017, there was no email traffic on these issues found even internally throughout Covington team members and Mr. Van Grack.
- Wednesday, Nov. 29, 2017, at 8:55 am: Brandon Van Grack sent Robert Kelner and Steve Anthony an updated, PDF redlined version of the plea documents, that deleted “as he then and there knew” (this deleted the only language that implicated Mr. Flynn with any knowledge of any “false statements” in the FARA registration when he signed it).

- Wednesday, Nov. 29, 2017, at 7:49 pm: Brandon Van Grack wrote to Covington that he could not send the signed documents that night.¹

The import of this is that the Special Counsel's Office ("SCO") and Mr. Van Grack in particular knew full well that Mr. Flynn had consistently maintained that he did not know the FARA filings were false when he signed them, and during the plea process, *Mr. Flynn had refused to sign a statement that said he did.*

Even though *Mr. Van Grack and SCO deleted that crucial language themselves*, and Mr. Van Grack transmitted it back to Covington, Mr. Van Grack exploded at Mr. Flynn's new counsel in the EDVA when she advised that Mr. Flynn would not lie and testify that he knowingly and intentionally signed a FARA registration containing any known "false statements." Every step Mr. Van Grack, Mr. Turgeon, and other prosecutors have taken against Mr. Flynn since that moment has been retaliatory, vindictive, and in bad faith including the government's about-face in its sentencing memorandum of January 7, 2020.²

Shockingly, this evinces the strong inference the prosecutors themselves conspired to cause Mr. Flynn to make false statements in violation of 18 U.S.C. §1001, and they conspired and encouraged the subornation of perjury as they tried to force Mr. Flynn to say he lied to his lawyers when they knew their narrative was false and the FARA registration was correct.³

¹ This is the best information from the materials defense counsel have been able to review to date. Counsel are dealing with eighteen hard drives and more than 318,000 documents. Counsel spent the first two months cooperating with the EDVA. The defense has not had sufficient time to review this massive file and brief all the issues it raises in defense of Mr. Flynn. If counsel discover any additional or contradictory information, the defense will report it promptly.

² See ECF No. 151 at 12.

³ "Whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be fined under this title or imprisoned not more than five years, or both." 18 U.S.C. § 1622.

Even worse, at the same time prosecutors pressured Mr. Flynn to commit false statement offenses⁴ and perjury, they held and suppressed the FBI 302 of Covington attorney Brian Smith (and two of Robert Kelner's) in which Mr. Smith advised Mr. Turgeon, James Gillis, FBI Agent Alfredo, and Mr. Van Grack, under penalty of §1001, that Mr. Flynn told him information that directly contradicted what the prosecution crafted and alleged as "false statements:"⁵

- "[A]ccording to Rafiekian, GULEN was the problem and was destroying the confidence in Turkey. In order to increase confidence in Turkey, Gulen had to be stopped." Robert Kelner 302 of June 21, 2018; ECF No. 150-6 at 7.
- "RAFIEKIAN worked with an editor, Hank COX, to write the op-ed on GULEN." Brian Smith 302 of June 21, 2018, ECF No. 150-5 at 7. "Flynn informed Smith it was his idea to write an op-ed. However Rafiekian wrote the first draft of the op-ed about Gulen." Smith 302, ECF No. 150-5 at 7. And, per FLYNN, "RAFIEKIAN wrote the first draft of the op-ed about GULEN." ECF No. 150-5 at 7.
- "Smith was aware of the September 2016 meeting in New York City (NYC) where FLYNN and RAFIEKIAN met with Turkish government officials... The topic of GULEN was brought up by Turkish officials at the meeting." Brian Smith 302 of 06/21/2018; ECF No. 150-5 at 5.⁶

⁴ If Mr. Flynn had "admitted" what was demanded in his EDVA interview, he could have been prosecuted for false statements as there was an FBI agent in the room who was creating a 302 for each of his interviews. The defense received sixteen of those FBI 302s were among the 637 pages just given to the defense on December 15, 2019. To have *testified* in the Rafiekian trial as demanded would have created a perjury count, as the prosecutors could have then used Covington lawyer Brian Smith to prove otherwise.

⁵ The "false" statements the prosecutors allege in the Statement of Offense are either correct, not attributable to Mr. Flynn, or created by the distortions and conflation of the prosecutors and Mr. Van Grack knew that also. See ECF No. 151-9. The prosecution also knew Covington interviewed Flynn and Rafiekian separately, and there was no evidence of a conspiracy between them regarding FARA. "Fast forward, I learned that Bijan had called here [Covington] to ask about FARA filing. I didn't know about that. He asked a couple of stupid questions that had nothing to do with FARA, but just political nonsense. I didn't find out about that until later on. Number one, that irritated me because he thought about that. He knew what FARA was. I've never talked to him about this." Mr. Flynn to SCO and EDVA attorneys in June 14, 2018. ECF No. 151-11 at 8.

⁶ Covington knew Mr. Flynn briefed the DIA on this meeting, and the government refused to produce to Mr. Flynn the information about that briefing. The New York meeting was also attended by former CIA Director James Woolsey (who was interviewed by SCO) (Brian Smith 302 of June 21, 2018, ECF No. 150-5 at 5) and by former FBI Deputy Assistant Director Brian

- Covington had emails since January 2017, including one stating: “Gentlemen I just finished in Ankara after several meetings today with Min of Economy Zeybecki and MFA Cavusoglu. I have a green light to discuss confidentiality, budget and the scope of the contract.” ECF. No. 151-5 at 13.

The government slipped the Smith and Kelner 302s in its sentencing filing of January 7, 2020. This is the first time the defense has seen them. This striking *Brady* material reveals that the government knew since at least June 2018 – long before Mr. Van Grack exploded at defense counsel, threatened Mr. Flynn, and retaliated against him and his son – that Covington lawyers’ statements prove Mr. Flynn had indeed told the truth to his lawyers.

These documents also show Mr. Van Grack knew there were no false statements in the FARA filing as he either created them himself or wrongly attributed them to Mr. Flynn and/or conflated “published” with “written by” in his prosecution. Mr. Smith’s (and Mr. Kelner’s) statements were made under application of the same statute for which Mr. Flynn stands accused of a felony.

The prosecutors suppressed lawyers’ statements in FBI 302s directly contradict any assertion of “false statements” by Mr. Flynn in the FARA filing.

Dated: January 16, 2020

Respectfully submitted,

/s/ Sidney Powell
Sidney Powell
Molly McCann
Sidney Powell, P.C.
2911 Turtle Creek Blvd.,
Suite 300
Dallas, Texas 75219
Tel: 214-707-1775
sidney@federalappeals.com

McCauley who testified *for the government* in *Rafiekian* that the Turkish officials gave no instructions. Brian Smith notes, Jan. 2, 2017; ECF No. 150-2.

W. William Hodes
The William Hodes Law Firm
3658 Conservation Trail
The Villages, Florida 32162
Tel: (352) 399-0531
Fax: (352) 240-3489
Admitted *Pro Hac Vice*

Admitted *Pro Hac Vice*
molly@federalappeals.com
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/s/ Jesse R. Binnall
Jesse R. Binnall
Lindsay R. McKasson
Harvey & Binnall, PLLC
717 King Street, Suite 300
Alexandria, VA 22314
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Fax: (703) 888-1930
jbinnall@harveybinnall.com
lmckasson@harveybinnall.com
Admitted *Pro Hac Vice*

CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2020, a true and genuine copy of Mr. Flynn's Errata Sheet was served via electronic mail by the Court's CM/ECF system to all counsel of record, including:

Jessie K. Liu, U.S. Attorney for the District of Columbia
Brandon L. Van Grack, Special Assistant U.S. Attorney
Jocelyn Ballantine, Assistant U.S. Attorney
555 4th Street, NW
Washington, D.C. 20530

Respectfully submitted,

/s/ Jesse R. Binnall
Jesse R. Binnall, VSB# 79272
HARVEY & BINNALL, PLLC
717 King Street, Suite 300
Alexandria, VA 22314
Tel: (703) 888-1943
Fax: (703) 888-1930
jbinnall@harveybinnall.com

ed by FLYNN ~~pertaining to Turkey~~ published in *The Hill* on November 8, 2016, was written at his own initiative; and by omitting that officials from the Republic of Turkey provided supervision and direction over the Turkey project; and (vi) ~~FIG paid Company A \$80,000 as "Consultancy" fees.~~ In truth and in fact, however, FLYNN then and there knew the following:

- a. ~~The Government of Turkey was directly involved in FIG's retention on the Turkey project;~~
- b. ~~The Government of Turkey supervised and directed the Turkey project;~~
- c. ~~The Turkey project was not in support of Company A's consulting work for an Israeli company;~~
- d. ~~The Turkey project was not focused on improving U.S. business organizations' confidence regarding doing business in Turkey;~~
- e. ~~FLYNN published the November 8, 2016 op-ed in support of the project; and~~
- f. 5c ~~The \$80,000 FIG paid to Company A was not for consulting fees.~~

ROBERT S. MUELLER, III
Special Counsel

By:

Brandon L. Van Grack
Zainab N. Ahmad
Senior Assistant Special Counsels
The Special Counsel's Office

From: BVG [mailto:BVG@usdoj.gov]
Sent: Monday, November 27, 2017 6:21 PM
To: Kelner, Robert <rkelo-r@ny.com>; Anthony, Stephen <santhony@ny.com>
Cc: ZNA <ZNA@usdoj.gov>
Subject: Plea Documents

Rob and Steve, after our meeting this morning and subsequent discussions with the Special Counsel, attached is our proposed plea offer. Rather than call you right now to address all of the points you've raised, I'd propose that you first review the documents since they address some of your concerns. That would also give you the opportunity to raise any remaining questions or concerns now that you have the documents in hand. We're available to talk later this evening at your convenience or connect tomorrow at 11:15 (which unfortunately is the earliest we'd be able to talk tomorrow).

Please let us know.
Brandon

Brandon L. Van Grack
The Special Counsel's Office
(202) 514-0529

NOTICE: This email (including any attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient (or the recipient's agent), you are hereby notified that any dissemination, distribution, copying, or use of this email or its contents is strictly prohibited. If you received this email in error, please notify the sender immediately and destroy all copies.

<MF Statement of Facts.pdf> <MF Plea Agreement.pdf> <MF Information.pdf>

From: Kelner, Robert
Sent: Monday, November 27, 2017 6:31 PM
To: Langton, Alexandra <ALangton@cov.com>; Smith, Brian <bdsmith@cov.com>; Polack, Roger <RPolack@cov.com>; Chertoff, Michael <mchertoff@cov.com>; DeBold, Joshua <jdebold@cov.com>
Cc: Anthony, Stephen <santhony@cov.com>
Subject: FW: Plea Documents

Draft plea papers from the SCO.

Robert Kelner

Covington & Burling LLP
One City Center, 850 Tenth Street, NW
Washington, DC 20001-4956
T +1 202 662 5503 | rkelner@cov.com
www.cov.com

<image001.jpg>

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Re: Plea Docs

From: "Kelner, Robert" <"/o=covington & burling/ou=cb/cn=recipients/cn=c&b.cbpow01.kelnerk">
To: BVG <bvg@usdoj.gov>
Cc: "Anthony, Stephen" <santhony@cov.com>, ZNA <zna@usdoj.gov>
Date: Wed, 29 Nov 2017 19:58:34 -0500

Understood. Thanks.

Sent from my iPhone

On Nov 29, 2017, at 7:49 PM, BVG <BVG@usdoj.govmailto:BVG@usdoj.gov>> wrote:

Unfortunately we're not going to be able to send you the signed documents tonight. We're going to aim for first thing tomorrow morning, which for planning purposes is unlikely to be before 9am.

Have a good evening,
Brandon

From: Kelner, Robert [mailto:rkelner@cov.com]
Sent: Wednesday, November 29, 2017 8:57 AM
To: BVG <BVG@jmd.usdoj.govmailto:BVG@jmd.usdoj.gov>>; Anthony, Stephen <santhony@cov.commailto:santhony@cov.com>>
Cc: ZNA <ZNA@jmd.usdoj.govmailto:ZNA@jmd.usdoj.gov>>
Subject: RE: Plea Docs

Thanks, Brandon. We'll take a look, and we'll see you later today.

Rob

Robert Kelner

Covington & Burling LLP
One CityCenter, 850 Tenth Street, NW
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T +1 202 662 5503 | rkelner@cov.commailto:rkelner@cov.com>
www.cov.com<http://www.cov.com>

<image003.jpg>

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From: BVG [mailto:BVG@usdoj.gov]
Sent: Wednesday, November 29, 2017 8:55 AM
To: Kelner, Robert <rkelner@cov.commailto:rkelner@cov.com>>; Anthony, Stephen <santhony@cov.commailto:santhony@cov.com>>
Cc: ZNA <ZNA@usdoj.govmailto:ZNA@usdoj.gov>>
Subject: Plea Docs

Rob and Steve, attached are the updated documents. I've attached a pdf with track changes, to help you identify what has changed. As you'll see, the majority of changes are grammatical, stylistic, or intended to help clarify or simplify. You should also see that many of the comments/edits you proposed have been made. I'd propose that this afternoon we discuss the other issues you've raised that are not reflected in the documents, as well as any additional edits or comments you have about these latest versions.

Much appreciated,
Brandon

Brandon L. Van Grack
The Special Counsel's Office
(202) 514-0529

NOTICE: This email (including any attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient (or the recipient's agent), you are hereby notified that any dissemination, distribution, copying, or use of this email or its contents is strictly prohibited. If you received this email in error, please notify the sender immediately and destroy all copies.

Attachments:

image003.jpg (2 KB)

<http://cbentvault01dc.cov.com/EnterpriseVault/ViewMessage.asp?>

VaultId=127967E82C2BB114CBA93692D726B7D3D1110000cbentvaultsite&SaveSetId=201804052934278
~201711300058350000~Z~81236C632BFF2A6FE5135CEE719B0F11&AttachmentId=1image003.jpg

<TABLE/></BODY></HTML>

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Monday, January 20, 2020 10:06 PM
To: Levi, William (OAG); DuCharme, Seth (ODAG)
Subject: SIM Interim Guidance Memo 1.20.2020 DRAFT
Attachments: SIM Interim Guidance Memo 1.20.2020 DRAFT.docx

DRAFT

Levi, William (OAG)

From: Levi, William (OAG)
Sent: Tuesday, January 21, 2020 9:25 AM
To: Rabbitt, Brian (OAG); DuCharme, Seth (ODAG)
Subject: RE: SIM Interim Guidance Memo 1.20.2020 DRAFT
Attachments: SIM Interim Guidance Memo 1.20.2020 DRAFT.docx

See some nits and comments attached.

From: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Sent: Monday, January 20, 2020 10:06 PM
To: Levi, William (OAG) <wlevi@jmd.usdoj.gov>; DuCharme, Seth (ODAG) <seducharme@jmd.usdoj.gov>
Subject: SIM Interim Guidance Memo 1.20.2020 DRAFT

Duplicative Material



**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

Plaintiff,

v.

Criminal Action No. 17-232-EGS

MICHAEL T. FLYNN,

Defendant.

MR. FLYNN'S SUPPLEMENTAL SENTENCING MEMORANDUM

Sidney Powell
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Attorneys for Lt. General Michael T. Flynn (USA) (Retired)

This Court should swiftly reject the government's brazen attempt to punish Mr. Flynn for refusing to *compose* rather than *sing*.¹ The reversal of its sentencing position is not only unjust, it is unlawful. If left unchecked, it will send a dangerous message to cooperators give testimony consistent with the government's theory of the case, regardless of veracity, *or* pay the price with your freedom.

The government also continues its campaign to hold Mr. Flynn responsible for false statements in a FARA filing. It ignores the facts in its possession as well as the decision of another court. Any misstatements in the March 2017 FARA filing at issue were not the fault of Mr. Flynn. He gave his lawyers complete and accurate documents and information. Moreover, he did his part to make sure any FARA filing was accurate. The FARA statements listed in the Statement of Offense (ECF No. 4) are either not false or not attributable to Mr. Flynn.²

Mr. Flynn dedicated his life to serving his country. While the defendants in other cases cited by the government were working to benefit themselves, Mr. Flynn wrote a blank check on his life and put himself in harm's way for more than five years in foreign deployments and thirty-three years of service to protect all Americans. He has touched the lives of countless people in the process, many of whom wrote letters to the Court on his behalf. For the reasons set forth in this supplemental memorandum and Mr. Flynn's initial sentencing brief (ECF No. 50), Mr. Flynn should receive a sentence, if any,³ of probation and community service.

¹ Paraphrasing an expression that Alan Dershowitz has used for decades. *See* Alan Dershowitz, *Federal Judge Rightly Rebukes Muller for Questionable Tactics*, The Hill, May 7, 2018, <https://thehill.com/opinion/judiciary/386508-federal-judge-rightly-rebukes-muller-for-questionable-tactics>.

² *See* Ex. 1 (comparing the government's allegations with the actual FARA filing and showing that any FARA falsehood were by the government).

³ Pursuant to ECF No. 151 and Mr. Flynn's forthcoming motions there should be no sentencing.

RELEVANT FACTS

Since November 2017 (and before), Mr. Flynn told the government the truth about every question it asked him, including what he knows concerning the Flynn Intel Group's ("FIG") involvement with Inovo BV, Ekim Altepkin, and the Government of Turkey. When the government decided to charge his former business partner, Bijan Rafiekian, *U.S. v. Rafiekian*, 1:18-cr-00457 (E.D. Va. 2019), concerning that relationship, Mr. Flynn continued to provide the government the truth, the whole truth, and nothing but the truth. At the beginning of his cooperation, Mr. Flynn's then-counsel and the government drafted a Statement of Offense. The government's original draft contained language that would have Mr. Flynn claim that he "then and there knew" that the FARA filing made by Covington in March of 2017 was false. Mr. Flynn could not sign that assertion because it was not true. Instead, the parties agreed to remove that language. One red-lined draft specifically shows that the language "then and there knew" relating to the FARA statements was removed and did not make it into the final version. *Compare* ECF No. 153-1 to ECF No. 4. Since that time, Mr. Flynn and his counsel have spent over one-hundred hours cooperating with the SCO and the EDVA, giving them truthful accounts about what he witnessed.

After twenty interviews, the government tried to pressure Mr. Flynn to change his testimony by saying that he knowingly authorized, made, or caused false statements in the FARA filing despite the clear written (redlined Statement of Offense) and transcribed record (notes of interviews plus his grand jury testimony) evidence to the contrary. After Mr. Flynn refused to "compose," the government began retaliating. They started by attempting to name Mr. Flynn as a co-conspirator in the EDVA matter. *U.S. v. Rafiekian*, 1:18-cr-00457, ECF No. 270 ("the government's reversal also sounds an alarm of possible retaliation and may have ramifications for Mr. Flynn beyond this trial. Mr. Flynn is still willing to cooperate with the government and provide

testimony consistent with his grand jury testimony and prior interviews.”). During the trial, they continued to retaliate by claiming Mr. Flynn was a co-conspirator. Judge Trenga was not impressed:

The Government’s position with respect to Flynn is particularly telling...the Government did not allege in either the original indictment or the superseding indictment that Flynn was a member of the conspiracy...Nor did the Government allege that Flynn was a member of the alleged conspiracy in its response to a court-ordered Bill of Particulars...With full knowledge of Flynn’s involvement, the Government told the Court as recently as June 13, 2019, that Flynn was not a member of the alleged conspiracy, *see* June 13, 2019 Hearing Tr. 65:9-22, [Doc. No. 213], only to notify the Court of its change in position on July 3, 2019, *see* [Doc. No. 261], not because of Flynn’s known involvement as outlined above or any other involvement, but because it no longer planned to call Flynn as a witness pursuant to his cooperation agreement with the Government, even though Flynn was prepared to testify.

U.S. v. Rafiekian, 1:18-cr-00457, ECF No. 372 at 35 (emphasis added).

But the prosecutors did not stop there. They continued their campaign of retaliation when they filed the recent supplemental memorandum in aid of sentencing. ECF No. 150. The comparison of that brief to its previous sentencing filings, ECF Nos. 46 and 47, and statements made at the December 2018 hearing is telling.

The government’s sentencing briefs from December 2018 detailed Mr. Flynn’s cooperation. The government recommended a sentence of probation after it also moved for a downward departure. ECF Nos. 46 and 47. During the hearing the government posited: it only “remain[ed] a possibility that General Flynn is continuing to cooperate with the government.” Dec. 18, 2018 Hearing Tr., 25:20-22. The government also stated, at that time, that:

[B]ased on the totality of the assistance that the defendant had provided at that point. We believe that it did merit substantial assistance in the filing of a motion for a downward departure, and we made a submission summarizing that. Related to that is, based on the government’s view of not only the assistance he provided, but the nature of the investigations he provided, that the defendant had provided the vast majority of cooperation that could be considered.

Id. at 27:6-13. Thus, if Mr. Flynn’s cooperation was considered “substantial assistance” barely a year ago, it cannot be cast as anything but “substantial assistance” now regardless of Mr. Flynn’s participation in the *Rafiekian* matter.

That the government now tries to walk back its position regarding Mr. Flynn is purely retaliation and vindictiveness by the prosecution. Its current position cannot stand and it should be bound by the previous judicial admissions it made to this Court.

ARGUMENT

I. Mr. Flynn upheld his end of the bargain under the Cooperation Agreement; the government failed to do so.

The government’s attempt to withdraw its request for a downward departure pursuant to U.S.S.G. § 5K1.1 is inappropriate, unlawful, and a breach of the plea agreement. It is not based on a legitimate purpose but rather because it could not convince Mr. Flynn to give false testimony in *United States v. Rafiekian*, 1:18-cr-00457 (E.D. Va. 2019). As Mr. Flynn discussed at length in his Motion to Withdraw Plea of Guilty and Unopposed Motion for Continuance (ECF No. 151, (“Withdrawal Motion I”)), Mr. Van Grack sought to force Mr. Flynn to lie for the government’s benefit. This failed attempt to cause Mr. Flynn to perjure himself and make false statements is repugnant and should be soundly rejected by this Court. It is especially ironic that in this case, a high profile § 1001 prosecution, that the prosecutor involved would attempt (and fail) to cause Mr. Flynn to make false statements. As explained in Withdrawal Motion I, the government’s breach is cause for Mr. Flynn to withdraw his guilty plea. ECF No. 151. Additionally, the government’s request should be ignored by this Court for sentencing purposes. Instead, the original Motion for a Downward Departure (ECF No. 47) should stand unaltered and the agreed sentence of probation should be imposed.

“In interpreting the terms of a plea agreement, we look to principles of contract law. In evaluating whether a plea agreement has been breached, we look to the reasonable understanding of the parties and construe any ambiguities in the agreement against the government.” *United States v. Murray*, 897 F.3d 298, 304 (D.C. Cir. 2018); see also *United States v. Jones*, 58 F.3d 692 (D.C. Cir. 1995) (a “plea agreement is a contract” and subject to the principles of contract law in its enforcement); *Santobello v. New York*, 404 U.S. 257, 262 (1971) (applying contract principles to plea agreements); and *United States v. Padilla*, 186 F.3d 136, 140 (2d Cir. 1999) (because of the government’s “overwhelmingly superior bargaining power,” plea agreements are strictly construed against the government). Like any other contract, the government must abide by its implied duty of good faith and fair dealing in performing its obligations under the sentencing agreement. *Murray*, 897 F.3d at 305.

When the government files a motion for a downward departure pursuant to USSG § 5K1.1 and a plea agreement, it can only be withdrawn if the plea agreement specifically provides for the withdrawal. *Padilla*, 186 F.3d at 141. Here, there was no such provision for a withdrawal, the government’s request to do so is invalid. See ECF No. 3.

Moreover, the failure of the government to recommend a downward departure for a constitutionally infirm reason is subject to judicial review. See *Wade v. United States*, 504 U.S. 181 (1992). As Mr. Flynn previously explained,⁴ the government attempted to coerce Mr. Flynn to lie in the *Rafiekian* case, and the prosecutors knew the statements they demanded Mr. Flynn make were contradicted by the Smith FD-302 of June 2018, the edited Statement of Offense, and other information Covington lawyers provided to the government. Indeed, Mr. Flynn presented

⁴ See Withdrawal Motion I (ECF No. 151 at 22) and Mr. Flynn’s Supp. Brief in Support of Motion to Withdraw Plea of Guilty (ECF 154).

substantial evidence, first to the government and then to this Court, that the government's theory that Mr. Flynn purposefully caused a false statement to be filed with the FARA unit in March 2017 is pure fiction.

The government's attempt to punish Mr. Flynn for pushing back against requests to give false evidence violates the very essence of due process and should be rejected. *See United States v. Paramo*, 998 F.2d 1212, 1218-20 (3d Cir. 1993) (holding that it is reversible error when a district court does not consider a prosecutorial vindictiveness claim when the prosecution withholds a 5K1.1 motion because the defendant chooses to exercise a constitutional right). Mr. Van Grack's attempt to punish Mr. Flynn for rejecting his insistence to commit perjury is a pedagogical example of "actual vindictiveness." *Id.* at 1220.

In considering an appropriate sentence, factors like deterrence are considered; the Court thinks about the message it sends to others not before it. Here, the Court should applaud Mr. Flynn's courage to stand firm against attempted coercion. If other cooperators know that they will be rewarded for testifying truthfully, not testifying to please prosecutors, the search for justice will be enhanced. Conversely, attempts by prosecutors to use their extraordinary leverage in an attempt to change the facts to meet their *theory*, rather than the truth, should be overtly chastised. Otherwise, the message will be heard loud and clear by others seeking a 5K1.1 motion: the facts are whatever prosecutors want them to be, regardless of actual veracity.

II. The government is asking the Court to consider behavior that is neither criminal nor culpable in regards to the March 2017 FARA filing.

Not to be dissuaded by the facts, the government continues its attempt to saddle Mr. Flynn with allegations of misconduct regarding the FARA filing submitted by his former lawyers in March 2017. As argued *supra*, this is despite the government's knowledge and agreement to remove the language of intent (that Mr. Flynn "then and there knew" the relevant statements to be

false) from paragraph five of the Statement of Offense. ECF No. 4. Moreover, the FARA filing read as a whole with the accompanying cover letter is overwhelmingly accurate. Any inaccuracy was caused by Covington, not Mr. Flynn (he did not know what his lawyers' two-month investigation uncovered).

There are three primary reasons why Mr. Flynn received no advantage for the inclusion of the FARA paragraph in his statement of offense: (1) Mr. Flynn never intentionally made or caused any false statements and omissions in the FARA filing, (2) prosecutors have made judicial admissions exculpating Mr. Flynn, and (3) another court has determined that the alleged acts were not unlawful; as a matter of documents and proof, the statements that the Government purports to be false are either not false or not attributable to Mr. Flynn. *See U.S. v. Rafiekian*, 1:18-cr-00457, ECF No. 372.

A. Flynn did not make or cause false FARA statements

The Foreign Agents Registration Act ("FARA") requires that "no person shall act as an agent of a foreign principal unless he has filed with the Attorney General a true and complete registration statement and supplements thereto. 22 U.S.C. § 612. A violation of FARA applies to any person who: (1) **willfully** violates any provision of this subchapter or any registration thereunder, or, (2) in any registration statement or supplement thereto or in any other document filed with or furnished to the Attorney General under the provisions of this subchapter **willfully makes a false statement of a material fact or willfully omits any material fact required to be stated therein or willfully omits a material fact**. 22 U.S.C. § 618 (emphasis added). Thus, a FARA violation requires willful conduct.

Here, by omitting the language "then and there knew," the government omitted any willful conduct by Mr. Flynn, an element of a FARA offense. This is putting aside that Mr. Flynn did in

fact register his company not just once, but twice (FIG first registered under the Lobbying Disclosure Act through attorney Robert Kelley). Moreover, Mr. Flynn hired the ostensibly elite legal team at Covington to investigate and (if necessary) file under FARA. The FARA filing (ECF 150-1 at 35-68) is substantially correct especially when considered with the cover letter Covington included with the filing. ECF No. 151-6 (“because of the subject matter of Flynn Intel Group’s work for Inovo BV, which focused on Mr. Fethullah Gulen, whose extradition is sought by the Government of Turkey, the engagement could be construed to have principally benefitted the Republic of Turkey.”).

B. The government should be held to its judicial admissions.

On a number of occasions, the government admitted that Mr. Flynn was not culpable for false FARA statements or conspiring to cause false FARA statements.⁵ When this Court questioned it regarding Mr. Flynn’s exposure relating to the FARA filing, which was “part of the indictment filed in the Eastern District of Virginia,” Mr. Van Grack stated, “under those false statements, now that I think about it, Your Honor, pertain to Ekim Alptekin, and I don’t believe the defendant had exposure to the false statements from that individual.” Dec. 18, 2018 Hearing Tr., 27:23-28:24.

In the *Rafiekian* case, Judge Trenga asked the government point blank whether it was asserting that Mr. Flynn was part of a conspiracy to cause a false FARA statement. The government was clear, “we do not contend that General Flynn was a part of that conspiracy.” ECF No. 151-3. It only changed its tune when they decided to retaliate against him for refusing to give false evidence.

⁵ See ECF No. 151 at 8 n. 14; *see also* judicial admissions ECF Nos. 46 and 47.

C. The alleged conduct was not culpable.

The Inovo BV contract was the brainchild of Mr. Flynn's partner, Mr. Rafiekian. After the *Rafiekian* trial, Judge Trenga explained in reasoned detail why the government failed to meet its burden as he entered a judgment of acquittal or, in the alternative, a new trial. *Rafiekian*, 1:18-cr-00457, ECF No. 372. If Mr. Rafiekian's conduct was not unlawful, then neither were any acts by Mr. Flynn. Indeed, government witnesses in the *Rafiekian* trial made clear that Flynn was less involved than Mr. Rafiekian.

The government alleges three false statements and one omission in the FARA filing. ECF No. 150 at 12-13. It misconstrues each statement.

The government first alleges that Mr. Flynn provided the following alleged false statement: "The filings affirmatively stated that FIG did not know whether or the extent to which the Republic of Turkey was involved in the Turkey Project." ECF No. 150 at 12. The actual FARA filing states "Flynn Intel Group does not know whether or the extent to which the Republic of Turkey was involved with its retention by Inovo for the three-month project. Flynn Intel Group is aware that Mr. Alptekin consulted with officials of the Republic of Turkey regarding potential work by Flynn Intel Group, and Mr. Alptekin introduced officials of the Republic of Turkey to Flynn Intel Group officials at meeting on September 19, 2016 in New York." ECF No. 150-1 at 35-68 (emphasis added). In short, the government excised the language "with its retention by Inovo" and omitted all language relating to the Government of Turkey. When looking at the actual FARA disclosure, any alleged false statement regarding Turkey's involvement is simply splitting hairs, especially in light of Covington's cover letter discussed *supra*.

On this point, Judge Trenga's memorandum opinion holding that the evidence against Mr. Rafiekian was insufficient as a matter of law is instructive:

There was no competent evidence from which a jury could find that Alptekin acted as the type of “intermediary” the Government contends. In fact, the only evidence of any association between Alptekin and the Turkish government in connection with FIG’s retention is reflected in the hearsay statements of Alptekin to Rafiekian, which were admitted not as proof of Alptekin’s relationship or role relative to Turkey, but solely as evidence of what Alptekin told Rafiekian. Accordingly, the jury had no evidence of what Alptekin’s actual relationship or role was relative to the Turkish government, and because of that absence could not find for its purposed in deciding the case that Alptekin was, in fact, operating as an agent, alter ego, representative, “cut-out”, or any other type of “intermediary for the Turkish government.

U.S. v. Rafiekian, 1:18-cr-00457, ECF No. 372 at 26. This point is crucial because Mr. Flynn could similarly not provide any competent evidence regarding Mr. Alptekin’s alleged connection to the Turkish government. He had no personal knowledge of these alleged facts. Everything he knew was told to him by either Mr. Rafiekian or Mr. Alptekin. Indeed, the first time he met Mr. Alptekin was during the New York meeting in September 2016. To ensure that FIG complied with its legal duties, Mr. Flynn provided his lawyers with the information he knew and the documents he possessed which was exactly what is disclosed above (*e.g.* that FIG “does not know whether or the extent to which the Republic of Turkey was involved with its retention by Inovo for the three-month project. Flynn Intel Group is aware that Mr. Alptekin consulted with officials of the Republic of Turkey regarding potential work by Flynn Intel Group, and Mr. Alptekin introduced officials of the Republic of Turkey to Flynn Intel Group officials at a meeting on September 19, 2016 in New York.”).

The second statement the government takes issue with is “the filings omitted that officials from the Republic of Turkey provided supervision and direction over the Turkey project.” ECF No. 150 at 12. This was omitted because Mr. Flynn has no idea, other than the hearsay statements of Mr. Alptekin, what Turkey’s alleged role was in the project. Mr. Flynn does not believe that

Turkish officials “supervised” or provided “direction or control” over the project. On this too, Judge Trenga’s opinion provides guidance:

[T]he only contact between Rafiekian and any Turkish official occurred during the September 19, 2016 meeting, and there is no evidence concerning anything said at that meeting from which a rational juror could find that Rafiekian had agreed to operate at the direction or control of the Turkish government. Nor do any of the actual agreements in evidence reflect any involvement by the Turkish government or any agreement by Rafiekian to operate subject to its direction and control; in fact, they all explicitly disclaim any agency relationship. The Government’s entire case therefore substantially boils down to Rafiekian’s interactions with Alptekin and its contention that Alptekin and Inovo were “intermediaries” for the Turkish government, through whom the Turkish government obtained Rafiekian’s agreement to operate subject to its direction and control.

U.S. v. Rafiekian, 1:18-cr-00457, ECF No. 372 at 25-26. Because Judge Trenga found there was no evidence of direction or control exercised by or through anyone for the Government of Turkey, the government’s entire theory of the case fell apart. *Id.* This holding is as applicable to Mr. Flynn as it is to Mr. Rafiekian. Indeed, Mr. Flynn spent significantly less time working on this project than did Mr. Rafiekian, because Mr. Flynn was busy working on a presidential campaign and on promoting the release of his best-selling book during the relevant timeframe (August 2016-November 2016).

The third alleged false statement the government cites is: “The filings affirmatively stated that FIG “understood the engagement to be focused on improving U.S. business organizations’ confidence regarding doing business in Turkey.” ECF No. 150 at 12. While the FARA filing did state this, the cover letter of the FARA filing also stated “because of the subject matter of Flynn Intel Group’s work for Inovo BV, which focused on Mr. Fethullah Gulen.” ECF No. 151-6 (emphasis added). Thus, the FARA filing disclosed that FIG’s work focused on Gulen. Any drafting error is that of Covington’s and not Mr. Flynn’s. Indeed, Covington’s notes make clear that Mr. Flynn told Covington on February 22, 2017 that initially the work involved commercial

activity, but that the work “crystalized” to focusing on Gulen. ECF No. 98-3 at Ex. 8 and Ex. 8A (Covington February 22, 2017 notes: Commercial Activity → Crystalized → Gulen).

Finally, the government takes issue with “the filings affirmatively stated that the defendant published the op-ed “on his own initiative” and it was not undertaken at the direction or control of a foreign principal.” ECF No. 150 at 13. It should first be noted that the Statement of Offense actually only states “[a]n op-ed by Flynn published in *The Hill* on November 8, 2016, was written at his own initiative.” It does not mention a foreign principal. The actual FARA filing states “Although not taken at the direction or control of a foreign principal, it is possible that such activities may have had an indirect benefit to a principal. On his own initiative, Michael T. Flynn published an op-ed in the *The Hill* on November 8, 2016, that related to the same subject matter as the Flynn Intel Group work for Inovo. Neither Inovo BV, nor any other person requested or directed publication of the op-ed.” ECF No. 150-1.

The government appears to conflate “write” with “publish” and “initiate.” Mr. Flynn has never maintained that he first drafted the subject op-ed, but he did agree to publish it under his name, after making a few edits. Indeed, Covington lawyers knew the truth. Mr. Smith’s June 21, 2018 FD-302 states Mr. “RAFIEKIAN worked with an editor, Hank COX, to write the op-ed on GULEN” and “FLYNN informed SMITH it was his idea to write an op-ed. However, RAFIEKIAN wrote the first draft of the op-ed about GULEN.” ECF No. 150-5. This is confirmed in Covington’s notes of January 2, 2017. ECF No. 151-12. Moreover, the FARA cover letter states “We also believe that the op-ed may have been prepared in the context of FIG’s representation of Inovo BV, as the draft op-ed was shared with a representative of Inovo BV prior to publication and the op-ed related to subject matters overlapping with FIG’s representation of Inovo BV.” ECF No. 151-6.

Here again, any drafting error is the fault of Covington and not Mr. Flynn. Regardless, none of these false statements appear to be actually false; further, none of them appear to be *material* in light of the overwhelming amount of correct information found in the entirety of the FARA filing in which Gulen and the Government of Turkey are both disclosed.

III. Sentencing Factors support a sentence of probation and community service.

The Court shall impose “a sentence sufficient, but not greater than necessary.” 18 USC § 3553(a). In making its determination, the Court considers various factors, including: (1) the nature and circumstances of the offense and the history and characteristics of the defendant; (2) the need for the sentence imposed; (3) the kinds of sentences available; (4) the kinds of sentence and sentencing range; (5) any pertinent policy statement; and (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct. *Id.* These factors support Mr. Flynn’s (and the government’s previous recommendation *see* ECF No. 46 and 47) request for probation and community service.

(1) The nature and circumstances of the offense and the history and characteristics of the defendant. Mr. Flynn is alleged to have violated 18 U.S.C § 1001. Mr. Flynn previously briefed the unique circumstances of the January 24, 2017 FBI “interview” at issue. ECF No. 50 at 7-9. More importantly, Mr. Flynn’s extraordinary history and character distinguish him.

As shown by the fifty (50) letters in support of Mr. Flynn (including thirty-five relating to his military service) as well as his many accolades⁶ from his distinguished career, Mr. Flynn is a man of exemplary character. ECF No. 50. He served his country for more than thirty-three years.

⁶ Including but not limited to: The Army Commendation Medal; The Meritorious Service Level; The Joint Service Commendation Medal; The Legion of Merit (2002, 2004); The Bronze Star (2002, 2005, 2006, 2007); The Defense Superior Service Medal (2007, 2008, 2009, 2010); and The Defense Distinguished Service Medal (2014).

His family up and down and across the generations proudly served and still serve now. Indeed, after filing its vindictive brief earlier this month, the government recently acknowledged that “the Court should take into account your client’s timely assistance to the Special Counsel’s Office (SCO) on a range of issues through the course of 20 interviews as well as his initial cooperation in the *Rafiekian* case, which we describe in detail in our December 2018 addendum [ECF No. 46-1]...Further, as we acknowledged in our filing, your client’s lengthy history of military service to the United States is an additional important mitigating factor that we have asked the Court to consider in determining where within the applicable Guidelines range to sentence your client.” ECF No. 151-13 (government’s January 13, 2020 letter “clarify[ing]” its “position” on sentencing). The government’s language and tone may change from brief to brief and letter to letter but one truth remains unassailably clear: few have served as honorably as Michael T. Flynn.

Mr. Flynn is also involved in charitable work such as working with Special Operations Warrior Foundation, Operation 300, McJunkin Family Charitable Foundation, as well as providing support to Gold Star families. His countless hours of work on behalf of this country must be factored into any sentence he receives. He has selflessly helped others throughout his life as the moving tribute letter from his sister Clare Eckert shows. ECF No. 50 at 23-32.

The Court should weigh Mr. Flynn’s military service substantially and favorably. His choice to dedicate his career to protecting Americans, by putting himself in harm’s way, distinguishes him from the vast majority of all Americans and almost anyone else who appears before this Court for sentencing, and certainly more than anyone else prosecuted by the SCO.

(2) The need for the sentence imposed. The second sentencing factor has sub-factors that the Court considers: “(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (B) to afford adequate deterrence to criminal

conduct; (C) to protect the public from further crimes of the defendant; (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective way.” 18 USC § 3553(a)(2). These factors also support probation and community service.

There is no need for a term of imprisonment. Mr. Flynn has already been on probation for over two years without issue. His case is among the highest profile § 1001 cases of all time. No one would want to go through what Mr. Flynn has been through as a result of the § 1001 charge constant media scrutiny, having to sell his house, having to seek permission to leave the country, or, for a period, even to travel more than 50 miles away from his home in Rhode Island or Washington, DC. The deterrence effect of this case is unmistakable; there is no need for a term of imprisonment.

(3) The kinds of sentences available, (4) the kinds of sentence and sentencing range, and (5) any pertinent policy statement. The government’s clarifying sentence position states: “[w]e believe that a sentence within the applicable Guidelines range which includes a possible sentence of probation is appropriate in this case.” ECF No. 151-13. Pursuant to USSG § 2B1.1(a), a § 1001 violation provides for a base offense level of six. Mr. Flynn’s criminal offense category is I (no criminal points). Therefore, Mr. Flynn is squarely within “Zone A” of the guidelines range, which is zero to six months imprisonment and the applicable guideline range fine is \$500 to \$9500.⁷ A sentence of probation is authorized if the applicable guidelines range is in Zone A. USSG § 5B1.1. For the reasons set forth above and below, Mr. Flynn submits a term of probation and community service is an appropriate sentence and fits within the Guidelines.

⁷ This is true regardless of the Court’s ruling on the government’s motion for downward departure (ECF Nos. 46, 47, and 150), discussed *supra* in Section I.

(6) The need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct. When compared to other § 1001 cases, a sentence of probation is well within the norm. According to the United States Sentencing Commission, for fiscal year 2018, the median sentence imposed for “Other Miscellaneous Offenses” (which includes 18 U.S.C. § 1001) with a criminal history category of I is **zero months**.⁸ The mean for the same category was one month. *Id.* The total amount of “Other Miscellaneous Offenses” in the fiscal year 2018 was 1,022.⁹ Of that figure, **42.5% received probation**, 30.5% received imprisonment, and 27% received a fine only. *Id.* Additionally, 91.6% of “Other Miscellaneous Offenses” were sentenced according to the Guideline range.¹⁰ In the same category (“Other Miscellaneous Offenses”) that were sentenced in the Guidelines range, 71.2% were sentenced in the “Guideline Minimum,” 22.6% were in the “Lower Half of Range,” 2.4% were in the “Upper Half of Range,” and 2.4% were in the “Guideline Maximum.”¹¹ Finally, the largest percentage of reasons given by sentencing courts for downward variances from the guideline range were “the history and characteristics of the defendant pursuant to 18 U.S.C. § 3553(a)(1)” at 10.9% (acceptance of responsibility was only 2.2%).¹²

Within this District, a sentence of probation is common for § 1001 offenses with an offense level of four or six. *See* EFC No. 50 at 10 (identifying only two out of thirteen cases (ten with a base level of four; three with a base level of six) in which judges in the District Court for the District of Columbia sentenced defendants imprisonment instead of probation). The two

⁸ U.S. Sentencing Commission, Sourcebook of Federal Sentencing Statistics, Table 27 (2018).

⁹ U.S. Sentencing Commission, Sourcebook of Federal Sentencing Statistics, Table 13 (2018)

¹⁰ U.S. Sentencing Commission, Sourcebook of Federal Sentencing Statistics, Table 31 (2018).

¹¹ U.S. Sentencing Commission, Sourcebook of Federal Sentencing Statistics, Table 34 (2018).

¹² U.S. Sentencing Commission, Sourcebook of Federal Sentencing Statistics, Table 44 (2018).

exceptions were *U.S. v. Van Der Zwaan* (1:18-cr-00031)¹³ and *U.S. v. Papadopolous* (1:17-cr-00182).¹⁴ Those matters were previously distinguished from the present matter in Mr. Flynn's initial sentencing memorandum. ECF No. 50 at 11.

In addition to Mr. Van Der Zwaan and Mr. Papadopolous, the government also points to Mr. Gates (*U.S. v. Gates, III*, 1:17-cr-00201¹⁵) and Mr. Wolfe (*U.S. v. Wolfe*, 1:17-cr-00170¹⁶) as cases that may be similar to Mr. Flynn's for sentencing purposes. These cases are also easily distinguishable.

Mr. Gates' total offense level was twenty-three (Mr. Flynn's is four or six). *U.S. v. Gates, III*, 1:17-cr-00201, ECF No. 643 at 7. In addition to a § 1001 charge for lying to the SCO, Mr. Gates also pled guilty to conspiring to commit multiple offenses, including tax fraud. *Id.* at ECF No. 206 at 2 ("caused millions of dollars of wire transfers to be made from offshore nominee accounts..."). While Mr. Flynn was overseas protecting our country and supporting his family on a military salary, Mr. Gates was conspiring to make himself and Mr. Manafort millions through tax evasion.

Mr. Wolfe's sentence is also distinguishable. Mr. Wolfe knowingly lied to the FBI during an investigation for which he knew was ongoing. *U.S. v. Wolfe*, 1:17-cr-00170, ECF No. 37 at 3.

Other than the obvious distinctions between Mr. Wolfe and Mr. Flynn (that Mr. Flynn is a decorated veteran who was charged with one offense compared to Mr. Wolfe who "repeatedly

¹³ Received thirty days in prison and \$20,000 fine.

¹⁴ Received fourteen days in prison, \$9,500 fine, one year of supervised release, two hundred hours of community service.

¹⁵ Mr. Van Der Zwaan never served his country, yet he received forty-five days of intermittent confinement in prison, three years of probation, and \$20,000 fine.

¹⁶ Received two months in prison, four months supervised release, twenty hours of community service, and \$7,500 fine.

disclosed non-public, SSCI-sensitive information relating to national security investigations¹⁷” to the media and then “repeatedly lying to the FBI”¹⁸ about it during a known, ongoing investigation for which he was given a § 1001 warning), there are other differences as well. The most significant of which is the government’s motion for upward departure for Mr. Wolfe. *U.S. v. Wolfe*, 1:18-cr-00170, ECF No. 44.

The government’s motion for upward departure was based on two grounds (1) that Mr. Wolfe’s alleged conduct “resulted in the significant disruption of an important governmental function” under U.S.S.G. § 5K2.7 (*Id.* at 19); and (2) that his conduct “significantly impacted the national security” under U.S.S.G. § 5K2.14 (*Id.* at 21). These arguments are based on facts alleged by the government, including that Mr. Wolfe’s position involved being “specifically tasked to make sure that the SSCI including its SCIF was not compromised by anyone, whether that be foreign agents or media who wished to report on sensitive information...[Thus,] Wolfe’s conduct had the potential to significantly disrupt the government function he performed.” *Id.* at 19. Further, Mr. Wolfe “was in a unique position...with keeping and protecting highly classified information.” *Id.* at 21.

The government did not move such an upward departure here. Indeed, it actually originally moved for a downward departure, only to change its mind recently in an unlawful one hundred-eighty degree turn from its position approximately one year ago (discussed *supra* in ‘Relevant Facts’ at 3). Admittedly, Mr. Flynn was a high-ranking government official, as was Mr. Wolfe who was charged with a § 1001 violation. That is the only similarity. Mr. Flynn did not participate in any “repeated” conduct. He did not use his position to participate in illegal conduct.

¹⁷ *U.S. v. Wolfe*, 1:18-cr-00170, ECF No. 44 at 22.

¹⁸ *Id.*

Additionally, Mr. Flynn's alleged false statement did not result in the "significant disruption of an important governmental function" nor did it "significantly impact national security."

After the government discusses the above defendants, it concludes that it "acknowledges that the defendant's history of military service, and his prior assistance to the government, though not substantial, may distinguish him from these other defendants." ECF No. 150 at 31. Mr. Flynn asserts that his military service and assistance to the government absolutely distinguish him. As the government wrote, Mr. Flynn's "early cooperation was particularly valuable because he was one of the few people with long-term and firsthand insight regarding events and issues under investigation by the SCO. Additionally, the defendant's decision to plead guilty and cooperate likely affected the decisions of related firsthand witnesses to be forthcoming with the SCO and cooperate." ECF No. 46-1 at 5. Given his extraordinary service and cooperation, a sentence of probation and community service is warranted.

CONCLUSION

John Adams was right: "facts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passions, they cannot alter the state of facts and evidence." The government tried to manufacture facts in the *Rafiekian* case and they thought they could strong-arm Mr. Flynn into helping them through perjury. But they underestimated the will and courage of Michael T. Flynn, a man that bravely and selflessly spent his life protecting his fellow Americans. In considering the whole story of this man and his sacrifices, the Court should impose no more than a sentence of probation.

Dated: January 22, 2020

/s/ Jesse R. Binnall
Jesse R. Binnall
Lindsay R. McKasson

Respectfully submitted,

/s/ Sidney Powell
Sidney Powell
Molly McCann

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Tel: 214-707-1775
sidney@federalappeals.com
Admitted *Pro Hac Vice*
molly@federalappeals.com
Admitted *Pro Hac Vice*

CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2020, a true and genuine copy of Mr. Flynn's Supplemental Sentencing Memorandum was served via electronic mail by the Court's CM/ECF system to all counsel of record, including:

Jessie K. Liu, U.S. Attorney for the District of Columbia
Brandon L. Van Grack, Special Assistant U.S. Attorney
Jocelyn Ballantine, Assistant U.S. Attorney
555 4th Street, NW
Washington, D.C. 20530

Respectfully submitted,

/s/ Jesse R. Binnall
Jesse R. Binnall, VSB# 79272
HARVEY & BINNALL, PLLC
717 King Street, Suite 300
Alexandria, VA 22314
Tel: (703) 888-1943
Fax: (703) 888-1930
jbinnall@harveybinnall.com

ALLEGED FALSE STATEMENT #1:

FLYNN INTEL GROUP, INC. DID NOT KNOW WHETHER OR TO THE EXTENT TO WHICH THE REPUBLIC OF TURKEY WAS INVOLVED WITH ITS RETENTION BY INOVO FOR THE THREE-MONTH PROJECT

**Actual FARA
Filing 03/07/17**

**Prosecution
Statement of
Offense 12/01/17
Government
Sentencing
Memorandum
01/07/2020**

“FIG did not know whether or to the extent to which the Republic of Turkey was involved in the Turkey project”

“The filings affirmatively stated that FIG did not know whether or the extent to which the Republic of Turkey was involved in the Turkey project.”

FACTS:

The government excised the language “with its retention by Inovo for the three-month project.”

Smith Notes
Jan. 2, 2017

Flynn told Smith and Kelner the Turkish officials brought up Gulen. Covington had the “green light” email.

Smith 302; June
2018

“SMITH was aware of the September 2016 meeting in New York City (NYC) where FLYNN and RAFIEKIAN met with Turkish government officials. Separately, NOLAN, RAFIEKIAN and FLYNN informed SMITH about the meeting.” Flynn told Smith the Turkish officials brought up Gulen.

Smith’s Notes,
2/21/17 FARA Unit
meeting at p. 2.

“[R. Kelner] -FIG aware EA [Alptekin] talked to GOT about govt engagement
So [Ekim] decided to engage through his company
No funding or direction from GOT [information from] him and his counsel...
[R. Kelner] understand he [Alptekin] was in touch [with Turkish officials].”

ALLEGED FALSE STATEMENT #2:

THE CONTRACT WAS FOCUSED ON IMPROVING U.S. BUSINESS ORGANIZATIONS' CONFIDENCE REGARDING DOING BUSINESS IN TURKEY

**Actual FARA
Filing 03/07/17**

**Prosecution
Statement of
Offense 12/01/17**

“[T]he Turkey project was focused on improving U.S. business organizations’ confidence regarding doing business in Turkey”

**Government
Sentencing
Memorandum
01/07/2020**

“The filings affirmatively stated that FIG ‘understood the engagement to be focused on improving U.S. business organizations’ confidence regarding doing business in Turkey.”

FACTS:

“The government omits “particularity with respect to the stability of Turkey and its suitability as a venue for investment and commercial activity.”

Smith Notes of First
Meeting with Flynn
Jan. 2, 2017

Turkish officials brought up Gulen. Flynn told Covington to look at the emails for the details.
Flynn briefed DIA before meeting with Turkish officials.

ECF No. 98-3 at Ex.
7. Large report.

Entitled: *Statement of the Problem “How do we restore confidence in the government of the Republic of Turkey and expose the Fethullah Gulen cult in the United States”* Covington had this document before the FARA filing.

ECF No. 98-3 at Ex.
8 and Ex. 8-A.

Covington Feb. 22, 2017 Notes from Mr. Flynn interview: Commercial Activity
→ Crystalized → Gulen.

Smith’s Notes,
2/21/17 FARA Unit
meeting at p. 3.

“[R. Kelner] - ...
Public source research Gulen
Develop adverse information about Gulen...
PR firm and develop video on Gulen and network.”

ALLEGED FALSE STATEMENT #3:

**AN OP-ED BY FLYNN PUBLISHED IN *THE HILL* ON NOVEMBER 8, 2016, WAS WRITTEN
“AT HIS OWN INITIATIVE”**

**Actual FARA Filing
03/07/17**

**Prosecution
Statement of
Offense 12/01/17**

“[A]n op-ed by Flynn published in *The Hill* on November 8, 2016, was written at his own initiative”

**Government
Sentencing
Memorandum
01/07/20**

“The filings affirmatively stated that the defendant published the op-ed “on his own initiative;” and it was not undertaken at the direction or control of a foreign principal.”

FACTS:
Smith’s Notes,
1/2/17 interview with
Mr. Flynn.

Flynn told Covington that Bijan wrote first draft of op-ed.

ECF No. 150-5 at 7
(Smith 302, 6/21/18).

“RAFIEKIAN worked with an editor, Hank COX, to write the op-ed on GULEN.”

“FLYNN informed SMITH it was his idea to write an op-ed. However RAFIEKIAN, wrote the first draft of the op-ed about GULEN.”

Smith’s Notes,
2/21/17 FARA Unit
meeting at p. 1-2.

Notified the FARA unit that Ekim Alptekin was “very upset” about the article and “asked for change,” but Mr. Flynn “didn’t accept any suggested changes.”

ALLEGED FALSE STATEMENT #4:

**FAILURE TO STATE TURKISH OFFICIALS PROVIDED DIRECTION OR CONTROL
OVER PROJECT**

**Actual FARA
Filing 3/07/17** No statement

**Prosecution
Statement of
Offense 12/01/17** Alleges FARA filing is false:
“by omitting that officials from the Republic of Turkey provided supervision and direction over the Turkey project”

**Government
Sentencing
Memorandum
01/07/2020** The FARA filing DOES NOT contain any statement asserting that the Republic of Turkey provided supervision and direction over the contract/project at issue.

FACTS:

Judge Trenga’s
Memorandum
Opinion, *United
States v. Rafiekian*,
Case No. 1:18-CR-
00457-AJT, ECF
No. 372 at 30.
Id. at 8.

“There is no evidence, not even in the hearsay statements from Alptekin to Rafiekian, that Alptekin, Inovo, or anyone associated with the Turkish government directed or controlled the work performed by FIG or Sphere personnel.”
“Alptekin was not pleased with the scope or substance of what was presented to him, which included a presentation by McCauley summarizing the findings of the investigation into Gulen and a mockup of the Gulenopoly board game conceived by Sphere.”

ECF No. 151-10 at
7-9 (*Rafiekian* trial,
McCauley 7/17/19
testimony).

During that meeting [in New York with the Turkish Officials], there was no discussion concerning any work that FIG was doing or of FIG's relationship with Inovo or the Turkish government, nor was there any request from the Turkish officials or Alptekin for FIG to do anything. McCauley testified that he effectively slapped down every suggestion Alptekin wanted FIG to do, and Alptekin was not happy with FIG’s work product.

Smith’s Notes,
2/21/17 FARA Unit
meeting at p. 3.
Id. at p. 7.

“[R. Kelner] Don’t have evidence to the contrary” regarding Alptekin having his own reasons for hiring FIG and no direction from Government of Turkey.
“HH (Heather Hunt of FARA Unit No connection with GOT?
[R. Kelner] Didn’t say that.”

DuCharme, Seth (ODAG)

From: DuCharme, Seth (ODAG)
Sent: Wednesday, January 22, 2020 8:06 PM
To: Rabbitt, Brian (OAG)
Subject: SIM Interim Guidance Memo 1.22.2020 DRAFT.docx
Attachments: SIM Interim Guidance Memo 1.22.2020 DRAFT.docx

Proposed edits and comments in track changes for your consideration

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Thursday, January 23, 2020 10:25 AM
To: DuCharme, Seth (ODAG); Levi, William (OAG)
Cc: Sofer, Gregg (OAG)
Subject: SIM Interim Guidance Memo 1.23.2020 DRAFT
Attachments: SIM Interim Guidance Memo 1.23.2020 DRAFT.docx

Further edits. Also copying Gregg for his thoughts.

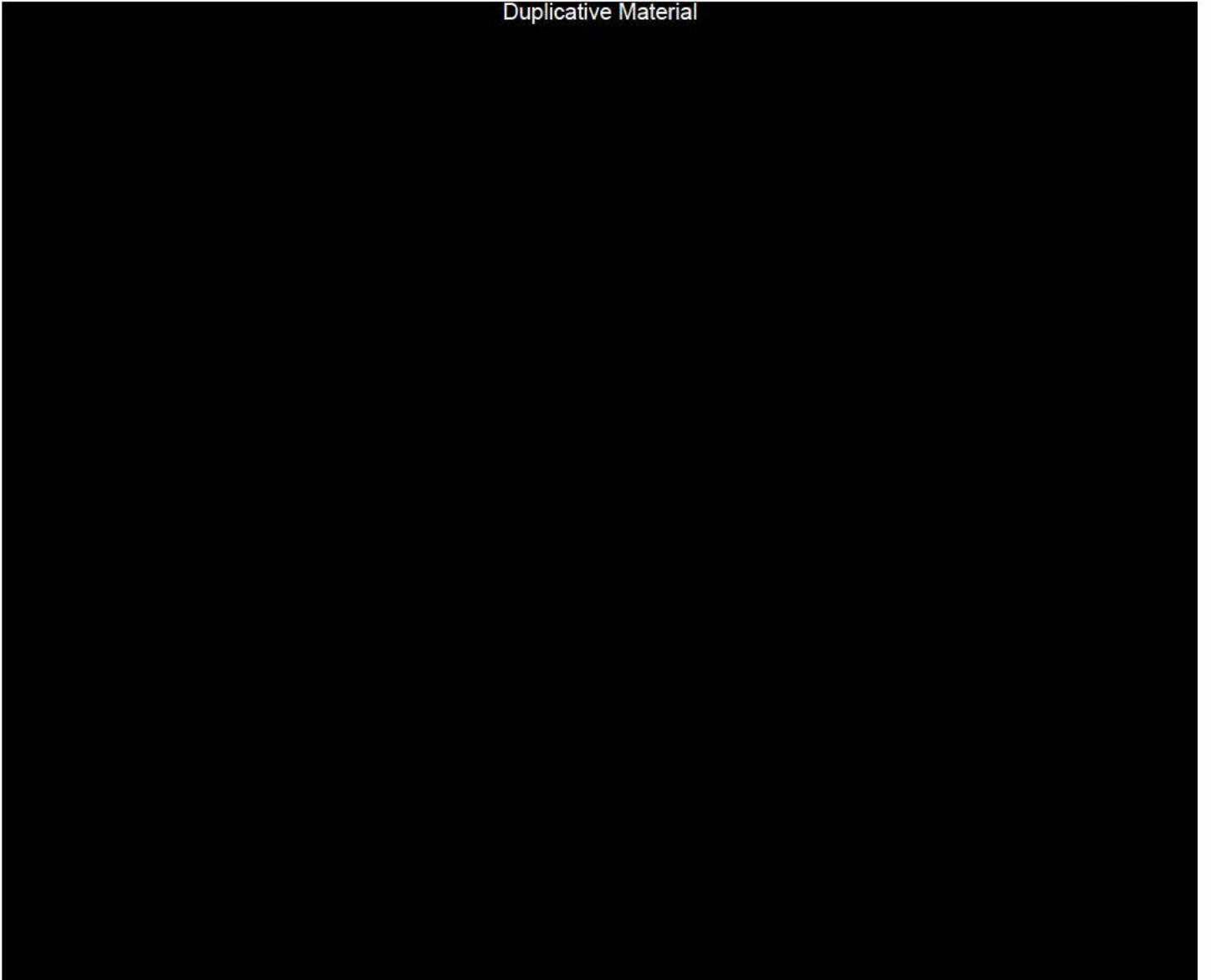
Rosen, Jeffrey A. (ODAG)

From: Rosen, Jeffrey A. (ODAG)
Sent: Thursday, January 23, 2020 1:04 PM
To: Suero, Maya A. (ODAG)
Subject: FW: Working doc - press conference prep
Attachments: OffTopicQs_WorkingDoc_Jan2020.docx

Please print this attachment for me, 2-sided, to take on trip. Thanks.

From: Hovakimian, Patrick (ODAG) <phovakimian4@jmd.usdoj.gov>
Sent: Thursday, January 16, 2020 11:06 AM
To: Rosen, Jeffrey A. (ODAG) <jarosen@jmd.usdoj.gov>
Cc: DuCharme, Seth (ODAG) <seducharme@jmd.usdoj.gov>
Subject: Fwd: Working doc - press conference prep

Duplicative Material



Rabbitt, Brian (OAG)

From: Rabbitt, Brian (●AG)
Sent: Thursday, January 23, 2020 5:42 PM
To: Murphy, Paul B. (DO) (FBI)
Subject: Draft Memo
Attachments: SIM Interim Guidance Memo 1.23.2020 DRAFT 2.0.pdf

Paul—I wanted to share the attached, which we’ve previously discussed. This is in draft, non-final form, and I would appreciate if you would not share it beyond you and the Director for the time being. We’d appreciate your thoughts – perhaps we can discuss tomorrow at lunch. BR

Brian C. Rabbitt
Chief of Staff & Sr. Counselor to the Attorney General
U.S. Department of Justice
T: (202) 514-3893
M: (b) (6)
Brian.Rabbitt@usdoj.gov

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Thursday, January 23, 2020 5:44 PM
To: Benczkowski, Brian (CRM) (b)(6), (b)(7)(C) per CRM @CRM.USDOJ.GOV); Demers, John C. (NSD) (jcdemers@jmd.usdoj.gov)
Subject: Draft Memo
Attachments: SIM Interim Guidance Memo 1.23.2020 DRAFT 2.0.docx

Brian, John – Attached is a draft, non-final memo we've been working on. If you have thoughts or edits, let's discuss tomorrow. Please do not distribute this further.

Brian C. Rabbitt
Chief of Staff & Sr. Counselor to the Attorney General
U.S. Department of Justice
T: (202) 514-3893
M: (b)(6)
Brian.Rabbitt@usdoj.gov

Demers, John C. (NSD)

From: Demers, John C. (NSD)
Sent: Thursday, January 23, 2020 6:54 PM
To: Rabbitt, Brian (●AG); Benczkowski, Brian (CRM)
Subject: SIM Interim Guidance Memo 1.23.2020 DRAFT 2.0
Attachments: SIM Interim Guidance Memo 1.23.2020 DRAFT 2.0.docx

A couple of suggestions in the attached. Thanks, Brian.

John

(b) (5)



From: DCD_ECFNotice@dcd.uscourts.gov <DCD_ECFNotice@dcd.uscourts.gov>

Sent: Friday, January 24, 2020 10:52 AM

To: DCD_ECFNotice@dcd.uscourts.gov

Subject: Activity in Case 1:17-cr-00232-EGS USA v. FLYNN Order on Motion to Continue

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 1/24/2020 at 10:52 AM EDT and filed on 1/24/2020

Case Name: USA v. FLYNN

Case Number: [1:17-cr-00232-EGS](#)

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER as to MICHAEL T. FLYNN granting [157] Defendant's Second Motion to Continue Briefing Deadlines. The parties shall adhere to the following modified briefing schedule: (1) Mr. Flynn shall file his "Supplemental Motion to Withdraw for alternative additional reasons" by no later than 12:00 PM on January 29, 2020; (2) the government shall file its response to Mr. Flynn's motion and supplemental motion by no later than 12:00 PM on February 12, 2020; and (3) Mr. Flynn shall file his reply brief by no later than 12:00 PM on February 18, 2020. Mr. Flynn's supplemental motion and the government's response shall address the following: (1) the standard in this Circuit for a defendant seeking to withdraw a guilty plea before sentencing; and (2) the need for an evidentiary hearing where the parties would present all testimony and evidence concerning the issue of whether Mr. Flynn can show that there is good cause to set aside his guilty pleas, see *United States v. Cray*, 47 F.3d 1203, 1206 (D.C. Cir. 1995), including testimony from Mr. Flynn and other witnesses under oath, subject to cross-examination, to show any "fair and just reason" for this Court to grant his motion to withdraw, Fed. R. Crim. P. 11(d). Signed by Judge Emmet G. Sullivan on 1/24/2020. (lcegs3)

1:17-cr-00232-EGS-1 Notice has been electronically mailed to:

Jocelyn S. Ballantine (b)(6) per EOUSA, USADC.CriminalDocket@usdoj.gov

Brandon Lang Van Grack (b)(6) per NSD; (b)(6) per EOUSA; (b)(6) per EOUSA

Jesse R. Binnall jbinnall@harveybinnall.com, Tricia@federalappeals.com,
dfox@harveybinnall.com, sidney@federalappeals.com

Zainab Naeem Ahmad (b)(6) per EOUSA

----- (b)(6) per EOUSA

W. William Hodes wwh@hodeslaw.com

Lindsay R. McKasson lmckasson@harveybinnall.com

Molly McCann (b) (6)

1:17-cr-00232-EGS-1 Notice will be delivered by other means to::

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Monday, January 27, 2020 1:41 PM
To: Levi, William (OAG)
Subject: RE: elections
Attachments: SIM Interim Guidance Memo 1.23.2020 DRAFT 2.0.docx

From: Levi, William (OAG) <wlevi@jmd.usdoj.gov>
Sent: Monday, January 27, 2020 1:35 PM
To: Rabbitt, Brian (OAG) <brabbitt@jmd.usdoj.gov>
Subject: elections

Would you mind flipping me the latest so that I am looking at the right version when I speak with Paul?

Thanks,

William R. Levi
Counselor to the Attorney General
Office of the Attorney General
U.S. Department of Justice
T: (202) 616-7740
M: (b) (6)
William.Levi@usdoj.gov

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FILED

DEC 01 2017

**Clerk, U.S. District and
Bankruptcy Courts**

UNITED STATES OF AMERICA

v.

MICHAEL T. FLYNN,

Defendant.

Criminal No.:

**Violation: 18 U.S.C. § 1001 (False
Statements)**

STATEMENT OF THE OFFENSE

Pursuant to Federal Rule of Criminal Procedure 11, the United States of America and the defendant, MICHAEL T. FLYNN, stipulate and agree that the following facts are true and accurate. These facts do not constitute all of the facts known to the parties concerning the charged offense; they are being submitted to demonstrate that sufficient facts exist that the defendant committed the offense to which he is pleading guilty.

1. The defendant, MICHAEL T. FLYNN, who served as a surrogate and national security advisor for the presidential campaign of Donald J. Trump ("Campaign"), as a senior member of President-Elect Trump's Transition Team ("Presidential Transition Team"), and as the National Security Advisor to President Trump, made materially false statements and omissions during an interview with the Federal Bureau of Investigation ("FBI") on January 24, 2017, in Washington, D.C. At the time of the interview, the FBI had an open investigation into the Government of Russia's ("Russia") efforts to interfere in the 2016 presidential election, including the nature of any links between individuals associated with the Campaign and Russia, and whether there was any coordination between the Campaign and Russia's efforts.

2. FLYNN's false statements and omissions impeded and otherwise had a material impact on the FBI's ongoing investigation into the existence of any links or coordination

between individuals associated with the Campaign and Russia's efforts to interfere with the 2016 presidential election.

False Statements Regarding FLYNN's Request to the Russian Ambassador that Russia Refrain from Escalating the Situation in Response to U.S. Sanctions against Russia

3. On or about January 24, 2017, FLYNN agreed to be interviewed by agents from the FBI ("January 24 voluntary interview"). During the interview, FLYNN falsely stated that he did not ask Russia's Ambassador to the United States ("Russian Ambassador") to refrain from escalating the situation in response to sanctions that the United States had imposed against Russia. FLYNN also falsely stated that he did not remember a follow-up conversation in which the Russian Ambassador stated that Russia had chosen to moderate its response to those sanctions as a result of FLYNN's request. In truth and in fact, however, FLYNN then and there knew that the following had occurred:

- a. On or about December 28, 2016, then-President Barack Obama signed Executive Order 13757, which was to take effect the following day. The executive order announced sanctions against Russia in response to that government's actions intended to interfere with the 2016 presidential election ("U.S. Sanctions").
- b. On or about December 28, 2016, the Russian Ambassador contacted FLYNN.
- c. On or about December 29, 2016, FLYNN called a senior official of the Presidential Transition Team ("PTT official"), who was with other senior members of the Presidential Transition Team at the Mar-a-Lago resort in Palm Beach, Florida, to discuss what, if anything, to communicate to the Russian Ambassador about the U.S. Sanctions. On that call, FLYNN and

the PTT official discussed the U.S. Sanctions, including the potential impact of those sanctions on the incoming administration's foreign policy goals. The PTT official and FLYNN also discussed that the members of the Presidential Transition Team at Mar-a-Lago did not want Russia to escalate the situation.

- d. Immediately after his phone call with the PTT official, FLYNN called the Russian Ambassador and requested that Russia not escalate the situation and only respond to the U.S. Sanctions in a reciprocal manner.
- e. Shortly after his phone call with the Russian Ambassador, FLYNN spoke with the PTT official to report on the substance of his call with the Russian Ambassador, including their discussion of the U.S. Sanctions.
- f. On or about December 30, 2016, Russian President Vladimir Putin released a statement indicating that Russia would not take retaliatory measures in response to the U.S. Sanctions at that time.
- g. On or about December 31, 2016, the Russian Ambassador called FLYNN and informed him that Russia had chosen not to retaliate in response to FLYNN's request.
- h. After his phone call with the Russian Ambassador, FLYNN spoke with senior members of the Presidential Transition Team about FLYNN's conversations with the Russian Ambassador regarding the U.S. Sanctions and Russia's decision not to escalate the situation.

False Statements Regarding FLYNN's Request that Foreign Officials Vote Against or Delay a United Nations Security Council Resolution

4. During the January 24 voluntary interview, FLYNN made additional false statements about calls he made to Russia and several other countries regarding a resolution submitted by Egypt to the United Nations Security Council on December 21, 2016. Specifically FLYNN falsely stated that he only asked the countries' positions on the vote, and that he did not request that any of the countries take any particular action on the resolution. FLYNN also falsely stated that the Russian Ambassador never described to him Russia's response to FLYNN's request regarding the resolution. In truth and in fact, however, FLYNN then and there knew that the following had occurred:

- a. On or about December 21, 2016, Egypt submitted a resolution to the United Nations Security Council on the issue of Israeli settlements ("resolution"). The United Nations Security Council was scheduled to vote on the resolution the following day.
- b. On or about December 22, 2016, a very senior member of the Presidential Transition Team directed FLYNN to contact officials from foreign governments, including Russia, to learn where each government stood on the resolution and to influence those governments to delay the vote or defeat the resolution.
- c. On or about December 22, 2016, FLYNN contacted the Russian Ambassador about the pending vote. FLYNN informed the Russian Ambassador about the incoming administration's opposition to the resolution, and requested that Russia vote against or delay the resolution.

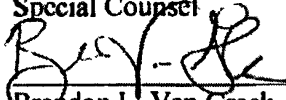
- d. On or about December 23, 2016, FLYNN again spoke with the Russian Ambassador, who informed FLYNN that if it came to a vote Russia would not vote against the resolution.

Other False Statements Regarding FLYNN's Contacts with Foreign Governments

5. On March 7, 2017, FLYNN filed multiple documents with the Department of Justice pursuant to the Foreign Agents Registration Act ("FARA") pertaining to a project performed by him and his company, the Flynn Intel Group, Inc. ("FIG"), for the principal benefit of the Republic of Turkey ("Turkey project"). In the FARA filings, FLYNN made materially false statements and omissions, including by falsely stating that (a) FIG did not know whether or the extent to which the Republic of Turkey was involved in the Turkey project, (b) the Turkey project was focused on improving U.S. business organizations' confidence regarding doing business in Turkey, and (c) an op-ed by FLYNN published in *The Hill* on November 8, 2016, was written at his own initiative; and by omitting that officials from the Republic of Turkey provided supervision and direction over the Turkey project.

ROBERT S. MUELLER, III
Special Counsel

By:

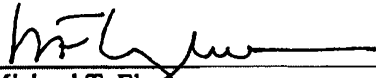

Brandon L. Van Grack
Zainab N. Ahmad
Senior Assistant Special Counsels
The Special Counsel's Office

DEFENDANT'S ACCEPTANCE

The preceding statement is a summary, made for the purpose of providing the Court with a factual basis for my guilty plea to the charge against me. It does not include all of the facts known to me regarding this offense. I make this statement knowingly and voluntarily and because I am, in fact, guilty of the crime charged. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Statement of the Offense fully.

I have read every word of this Statement of the Offense, or have had it read to me. Pursuant to Federal Rule of Criminal Procedure 11, after consulting with my attorneys, I agree and stipulate to this Statement of the Offense, and declare under penalty of perjury that it is true and correct.

Date: 11/30/17




Michael T. Flynn
Defendant

ATTORNEYS' ACKNOWLEDGMENT

I have read this Statement of the Offense, and have reviewed it with my client fully. I concur in my client's desire to adopt and stipulate to this Statement of the Offense as true and accurate.

Date: 11/30/17



Robert K. Kelner
Attorney for Defendant



Stephen P. Anthony
Attorney for Defendant

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

MICHAEL T. FLYNN,

Defendant

Crim. No. 17-232 (EGS)

**UNITED STATES' REPLY TO DEFENDANT'S SUPPLEMENTAL
SENTENCING MEMORANDUM**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, hereby respectfully submits its Reply to Defendant's Supplemental Sentencing Memorandum. On January 24, 2017, while serving as National Security Advisor, defendant Flynn willfully and knowingly made multiple material false statements to two Federal Bureau of Investigation ("FBI") agents conducting an investigation into the Russian government's efforts to interfere in the 2016 presidential election. On December 1, 2017, the defendant entered a plea of guilty to a single count of "willfully and knowingly" making material false statements to the FBI, in violation of 18 U.S.C. § 1001(a)(2). *See* Information; SOF at ¶¶ 3-4.¹ On December 18, 2018, the defendant reaffirmed his guilty plea to this Court. *See* 12/18/2018 Hearing Tr. at 16. Defendant Flynn currently is scheduled to be sentenced by this Court on February 27, 2020. Also pending before the Court is the defendant's motion to withdraw his plea, which the government will address in a separate filing. *See* Motion to Withdraw Plea of Guilty (Doc. 151) ("Def. Initial Withdrawal Mot."). Notably, with respect to the matter at hand, none of the issues raised in the

¹ The short form citations herein conform to the full citations and their associated short form citations set forth in the Government's Supplemental Memorandum in Aid of Sentencing (Doc. 150) ("Gov't Supp. Sent'g Mem.").

Defendant's supplemental sentencing submission alter the applicable Guidelines range of 0 to 6 months of incarceration. As set forth below, the government maintains that a sentence within the Guidelines range to include a sentence of probation would be appropriate and warranted in this case.

Argument

The task at hand is to impose an appropriate sentence for the defendant's criminal conduct in lying to the FBI about his conversations with the Russian Ambassador. Defendant Flynn has affirmed his guilt of this crime on multiple occasions, before multiple district judges, and he does not directly contest it in his supplemental sentencing memorandum. *See* Defendant's Supplemental Sentencing Memorandum at 1 (Doc. 156) ("Def. Supp. Sent'g Mem."). Accordingly, the relevant facts are before the Court to impose an appropriate sentence for the offense of conviction, consistent with the Guidelines and the statutory sentencing factors.

A. None of the Contested Sentencing Issues Affects the Applicable Guidelines Range

The Supreme Court has "recognized that, in the ordinary case, the Commission's recommendation of a sentencing range will 'reflect a rough approximation of sentences that might achieve § 3553(a)'s objectives.'" *Kimbrough v. United States*, 552 U.S. 85, 109 (2007) (quoting *Rita v. United States*, 551 U.S. 338, 350 (2007)). It is uncontested that, under the Guidelines, a base offense level of 6 applies to the defendant's violation of 18 U.S.C. § 1001, which, in combination with the defendant's criminal history category of I, results in a Guidelines range of 0 to 6 months of incarceration.

The defendant devotes most of his supplemental sentencing memorandum to contesting the falsity of his previously-admitted "materially false statements and omissions" in his FARA filings, which omitted the operative fact that the Government of Turkey provided direction and supervision

over the Turkey Project. *Compare* SOF ¶ 5 with Gov't Supp. Sent'g Mem., Att. 1, Ex. 56 (Registration Statement, Paras. 7-8, 11-12); Ex. 58 (Registration Statement, Exhibit A); Ex. 61 (Supplemental Statement). The defendant now characterizes his conduct with respect to the FARA filings as being "neither criminal or culpable." Def. Supp. Sent'g Mem. at 6.² As an initial matter, the defendant has not been convicted of a FARA violation. While the government concedes that the Statement of the Offense is silent as to his state of mind at the time the filings were made, the facts relevant to the defendant's FARA false statements include the defendant's plea statement, his grand jury testimony, the record before this Court, and the government's supplemental sentencing memorandum. Importantly, regardless of whether or not the Court considers the defendant's FARA false statements in fashioning its sentence, the applicable Guidelines range is still 0 to 6 months of incarceration.

Similarly, the government's determination, in its sole discretion, that the defendant is not entitled to a downward departure for "substantial assistance" has no impact on the applicable Guidelines range. The Guidelines provide for a downward departure, upon "motion of the government," if the "defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense." U.S.S.G. § 5K1.1. The plea

² The defendant claims, incorrectly, that the government previously represented to the Court that the defendant "was not culpable for false FARA statements or conspiring to cause false FARA statements." Def. Supp. Sent'g Mem at 8. In support, the defendant selectively weaves together two lines from the December 18, 2018 hearing. *Id.* But the entire exchange on this topic shows just the opposite—that the government affirmed that the defendant was "culpable" for the false FARA statements and conspiring to cause false FARA statements. *See* 12/18/2018 Hearing Tr. at 27-28 (Court: "[c]ould [Flynn] have been charged in that [Rafiekian] indictment?" Government: "Your Honor, the answer is yes, and the reason for that is that in the Statement of Offense in this case, the defendant refers to false statements in that FARA filing that are part of the indictment filed in the Eastern District of Virginia.") The government's statement that the defendant was "not culpable" referred to counts three through six of the Rafiekian indictment, which charged Alptekin with making false statement to the FBI in May 2017 (for which the defendant was not present).

agreement is explicit on that point, stating that the “[g]overnment determines” whether the defendant “has provided such substantial assistance” to merit a departure, and that such a determination “is within the *sole* discretion of the Government and not reviewable by the Court.” Plea Agmt at 9 (emphasis added). Here, the applicable Guidelines range already encompasses a potential penalty of probation and there is no lower possible penalty for the offense of conviction. Thus, the issue of whether the defendant is entitled to the benefit of a downward departure has no impact on the applicable Guidelines range. Moreover, as the government made clear in both its original and supplemental sentencing filings, the Court is entitled to consider the defendant’s assistance to the Special Counsel’s Office on “a range of issues” during 20 interviews, as well as his early entry of a plea in this case, and his initial cooperation in the *Rafiekian* case, under the statutory sentencing factors, discussed further below.

The defendant’s assertions that the government attempted to pressure him to lie about the falsity of FARA statements in the *Rafiekian* case are incorrect, unsupported and unavailing here. *See generally United States v. Bijan Rafiekian*, No. 18-cr-457 (E.D. Va.). Indeed, as the defendant’s own submission makes clear, the government explicitly stated that it did not want the defendant to lie and was only interested in presenting the defendant’s truthful testimony in the *Rafiekian* case. *See* Def. Initial Withdrawal Mot., Att. 2, at 5-6, 10-11 (Doc. 151-2, Notes of Lindsay R. McKasson). The government intends to respond more fully to this false allegation in its opposition to the defendant’s motion to withdraw his plea. Although it is true that the defendant ultimately did not provide “substantial assistance” to the government within the meaning of Section 5K1.1, the government is not asking the Court to find that the specific circumstances of the defendant’s efforts to cooperate are an aggravating factor in determining the defendant’s appropriate sentence. In short, the government appropriately and responsibly exercised its discretion not to call the defendant as a witness at the *Rafiekian* trial, and similarly appropriately

and responsibly exercised its discretion to withdraw its motion for a downward departure based on Section 5K1.1. In addition, as noted above, the government acknowledges that the defendant deserves consideration for assistance he provided.

With respect to consideration for acceptance of responsibility, as of the date of this filing, the defendant is hard pressed to justify a two-level reduction while at the same time seeking to withdraw his guilty plea. Indeed, the plea agreement specifically permits the government to “seek denial of the adjustment for acceptance of responsibility . . . should [the defendant] move to withdraw [his] guilty plea after it is entered.” *See* Plea Agmt at 2, ¶ 4.B. But again, this makes no difference to the applicable Guidelines range—a two-level reduction in his base offense level would still result in a range of 0 to 6 months of incarceration. Accordingly, the contested sentencing issues have no effect on the applicable Guidelines range.

B. Analysis of Factors Enunciated in 18 U.S.C. §3553(a)(1)

As the government has noted in each of its sentencing submissions, and as it again acknowledges here specifically in reply to the defendant’s submission, the defendant’s lengthy military service to the United States is an important mitigating factor for the Court to consider when assessing the Section 3553(a) factors—the history and characteristics of the defendant. Specifically, the government recognizes the defendant’s 33-year history with the United States Army, where he served for 16 years as a paratrooper, including in the 82nd Airborne Division, and qualified as an elite U.S. Army Ranger, making more than 150 combat training jumps during the course of his career. The defendant eventually served as the senior intelligence officer for the 82nd Airborne Division and for the 18th Airborne Corps; Director of Intelligence for U.S. Forces in Afghanistan (in 2002 and again in 2009-10); Director of Intelligence for the Joint Special Operations Command, including service in Iraq and Afghanistan; Director of Intelligence for the U.S. Central Command; Director of Intelligence for the Joint Chiefs of Staff; Assistant Director

of National Intelligence, in the Office of the Director of National Intelligence; and finally, Director of the Defense Intelligence Agency. There is no dispute that the defendant has an unusually strong record of public service.

In terms of comparative sentences in cases involving arguably similarly-situated defendants, we note that there are several cases involving high-ranking government officials where probationary sentences were imposed. Former National Security Advisor Sandy Berger stole classified information from the National Archives, destroyed that information, and then lied to the government about his conduct. At the government's recommendation, based in part on Berger's cooperation with the government, he received a probationary sentence. *See* Gov't Sent'g Mem. at 9, *United States v. Berger*, No. 05-mj-00175 (D.D.C. Sept 6, 2005) (Doc. 13); *see also* Factual Basis for Plea (D.D.C. Apr. 1, 2005) (Doc. 6). Likewise, after General David Petraeus pleaded guilty to the unauthorized retention and removal of classified documents, in violation of 18 U.S.C. § 1924, he received a probationary sentence. *United States v. Petraeus*, No. 15-cr-47 (W.D.N.C.). Here, the Court should consider these and other arguably analogous cases, along with all of the other relevant facts in this case, in fashioning a sentence that is "sufficient but not greater than necessary" to satisfy the statutory sentencing requirements under Title 18, United States Code, Section 3553(a).

CONCLUSION

Based on all of the relevant facts and for the foregoing reasons, the government submits that a sentence within the Guidelines range of 0 to 6 months of incarceration is appropriate and warranted in this case, agrees with the defendant that a sentence of probation is a reasonable sentence and does not oppose the imposition of a sentence of probation.

Respectfully submitted,

JESSIE K. LIU
United States Attorney
D.C. Bar No. 472845

By: _____/s/_____

Brandon L. Van Grack
Special Assistant U.S. Attorney
950 Pennsylvania Ave., NW
Washington, DC 20530
(202) 233-0968

Jocelyn Ballantine
Assistant United States Attorney
555 4th Street, NW
Washington, D.C. 20530
(202) 252-7252

Dated: January 29, 2020

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Thursday, January 30, 2020 11:34 AM
To: Benczkowski, Brian (CRM) (b)(6), (b)(7)(C) per CRM @CRM.USDOJ.GOV); Demers, John C. (NSD) (jcdemers@jmd.usdoj.gov)
Subject: Drafts
Attachments: SIM Interim Guidance Memo 1.30.2020 Draft.docx

Revised draft of the memorandum we discussed attached. Edits and comments welcomed.

Brian C. Rabbitt
Chief of Staff & Sr. Counselor to the Attorney General
U.S. Department of Justice
T: (202) 514-3893
M: (b) (6)
Brian.Rabbitt@usdoj.gov

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Thursday, January 30, 2020 11:35 AM
To: Engel, Steven A. (OLC) (b)(6) per OLC; Gannon, Curtis E. (OLC)
(b)(6) per OLC
Subject: Draft Memorandum
Attachments: SIM Interim Guidance Memo 1.30.2020 Draft.docx

Steve, Curtis – I'd welcome your thoughts on / edits to the attached draft memo.

Brian C. Rabbitt
Chief of Staff & Sr. Counselor to the Attorney General
U.S. Department of Justice
T: (202) 514-3893
M: (b)(6)
Brian.Rabbitt@usdoj.gov

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Thursday, January 30, 2020 11:36 AM
To: Levi, William (OAG); DuCharme, Seth (ODAG)
Subject: Draft Memo
Attachments: SIM Interim Guidance Memo 1.30.2020 Draft.docx

Will, Seth – Please see the attached draft. Edits/comments welcomed.

Brian C. Rabbitt
Chief of Staff & Sr. Counselor to the Attorney General
U.S. Department of Justice
T: (202) 514-3893
M: (b) (6)
Brian.Rabbitt@usdoj.gov

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Thursday, January 30, 2020 11:37 AM
To: NealyCox, Erin (USATXN)
Subject: Draft Memo
Attachments: SIM Interim Guidance Memo 1.30.2020 Draft.docx

Erin – As head of AGAC, I'd appreciate your thoughts on the attached. Please keep this close hold.

Brian C. Rabbitt
Chief of Staff & Sr. Counselor to the Attorney General
U.S. Department of Justice
T: (202) 514-3893
M: (b) (6)
Brian.Rabbitt@usdoj.gov

Demers, John C. (NSD)

From: Demers, John C. (NSD)
Sent: Thursday, January 30, 2020 11:58 AM
To: Rabbitt, Brian (OAG)
Subject: SIM Interim Guidance Memo 1.30.2020 Draft
Attachments: SIM Interim Guidance Memo 1.30.2020 Draft.docx

My thoughts. Happy to talk them through.

John

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Thursday, January 30, 2020 3:26 PM
To: Sofer, Gregg (OAG)
Attachments: SIM Interim Guidance Memo 1.30.2020 Draft.docx

Brian C. Rabbitt
Chief of Staff & Sr. Counselor to the Attorney General
U.S. Department of Justice
T: (202) 514-3893
M: (b) (6)
Brian.Rabbitt@usdoj.gov


Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Thursday, January 30, 2020 5:57 PM
To: Rabbitt, Brian (OAG); Gannon, Curtis E. (OLC)
Subject: RE: Draft Memorandum
Attachments: SIM Interim Guidance Memo 1.30.2020 Draft + SAE.docx

Here some suggested edits and some thoughts. Happy to discuss or to take a crack at implementing anything worth implementing.

From: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Sent: Thursday, January 30, 2020 11:35 AM
To: Engel, Steven A. (OLC) (b)(6) per OLC >; Gannon, Curtis E. (OLC) (b)(6) per OLC
Subject: Draft Memorandum

Duplicative Material



NealyCox, Erin (USATXN)

From: NealyCox, Erin (USATXN)
Sent: Thursday, January 30, 2020 11:18 PM
To: Rabbitt, Brian (OAG)
Subject: SIM Interim Guidance Memo 1.30.2020 Draft
Attachments: SIM Interim Guidance Memo 1.30.2020 Draft.docx; ATT00001.htm

Brian: Thanks for passing along. I reviewed and made only a couple of minor proposed adds/revisions. I am working of an iPad so I incorporated the adds below (underlined) in cases they track changes were lost in conversion.

Let me know if I can be of any additional help or you would like to discuss.

Best, ENC

(b) (5)



Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Friday, January 31, 2020 3:13 PM
To: Benczkowski, Brian (CRM); Demers, John C. (NSD); Engel, Steven A. (OLC); DuCharme, Seth (ODAG)
Cc: Levi, William (OAG); Sofer, Gregg (OAG)
Subject: DRAFT Memo
Attachments: SIM Interim Guidance Memo 1.31.2020 Draft.docx

Updates have been made to this to reflect input received from various folks. Please give it another read if you could.

Brian C. Rabbitt
Chief of Staff & Sr. Counselor to the Attorney General
U.S. Department of Justice
T: (202) 514-3893
M: (b) (6)
Brian.Rabbitt@usdoj.gov

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Friday, January 31, 2020 4:42 PM
To: Rabbitt, Brian (OAG)
Subject: RE: DRAFT Memo
Attachments: SIM Interim Guidance Memo 1.31.2020 Draft + SAE.docx

This looks good. A few small suggested edits.

Note, [REDACTED] (b)(5) per OLC
[REDACTED]
[REDACTED]

From: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Sent: Friday, January 31, 2020 3:13 PM
To: Bemczkowski, Brian (CRM) [REDACTED] (b)(6), (b)(7)(C) per CRM @CRM.USDOJ.GOV>; Demers, John C. (NSD) <jcdemers@jmd.usdoj.gov>; Engel, Steven A. (OLC) [REDACTED] (b)(6) per OLC >; DuCharme, Seth (ODAG) <seducharme@jmd.usdoj.gov>
Cc: Levi, William (OAG) <wlevi@jmd.usdoj.gov>; Sofer, Gregg (OAG) <gsofer@jmd.usdoj.gov>
Subject: DRAFT Memo

Duplicative Material

[REDACTED]

Evangelista, Alessio (USADC)

From: Evangelista, Alessio (USADC)
Sent: Saturday, February 1, 2020 8:47 AM
To: Shea, Timothy (OAG)
Subject: Fwd: FPC Weekly – USA Edition
Attachments: Weekly Report 1-31-20-Final.docx; ATT00001.htm; Weekly Report 1-31-20-Final.pdf; ATT00002.htm

First of many.

Alessio D. Evangelista
Principal Assistant United States Attorney
District of Columbia
(b)(6) per EOUSA (cell)

Begin forwarded message:

Memorandum
Jessie K. Liu
United States Attorney
District of Columbia



Subject:
Significant Events Report for FPC¹

Date:
January 31, 2020

To:
Jessie K. Liu, United States Attorney
Alessio Evangelista, Principal AUSA
T. Patrick Martin, Chief, Criminal Div.
John Crabb, Deputy Chief, Criminal Div.

From:
J.P. Cooney, Chief
Michelle Zamarin, Deputy Chief
Jonathan Kravis, Deputy Chief

FPC WEEKLY REPORT – U.S. ATTORNEY EDITION

Sensitive Case Occurrences or Developments

Not Responsive Records

In ***Roger Stone*** (false statements to HPSCI and obstruction), the team circulated the first draft of the sentencing memorandum, which is due Friday, February 7. We anticipate a USSG range of 87-108 months or 70-87 months, depending on the results of a disputed adjustment. (b)(5) per EOUSA [REDACTED] Sentencing is Thursday, February 20. The case is being handled by FPC Deputy Chief Jonathan Kraivis, AUSA Michael Marando, and SAUSAs Adam Jed and Aaron Zelinsky. Stone is represented by Bruce Rogow of Ft. Lauderdale. The judge is Amy Berman Jackson.

Not Responsive Records

¹ Contains law enforcement sensitive, sealed, and grand jury information.

Evangelista, Alessio (USADC)

From: Evangelista, Alessio (USADC)
Sent: Saturday, February 1, 2020 5:38 PM
To: Shea, Timothy (OAG)
Subject: Fwd: NSS Weekly Report
Attachments: SignificantEventsReport_20200201.docx; ATT00001.htm;
SignificantEventsReport_20200201.pdf; ATT00002.htm

Alessio D. Evangelista
Principal Assistant U.S. Attorney
District of Columbia
(202) 252-6620 (office)
(b)(6) per EOUSA (cell)

Begin forwarded message:

From: "Maisel, Gregg (USADC)" (b)(6) per EOUSA
Date: February 1, 2020 at 5:29:01 PM EST
To: "Bach, Laura (USADC)" (b)(6) per EOUSA, "Baker, Dineen (USADC)"
(b)(6) per EOUSA, "Bates, Lauren (USADC)" (b)(6) per EOUSA, "Bentley, Janean
(USADC)" (b)(6) per EOUSA, "Chesser, Barbara (USADC)"
(b)(6) per EOUSA, "Cheung, Denise (USADC)"
(b)(6) per EOUSA, "Constantinide, Alyse (USADC)" (b)(6) per EOUSA
(b)(6) per EOUSA, "Cooney, Joseph (USADC)" (b)(6) per EOUSA, "Cooper, Renata
(USADC)" (b)(6) per EOUSA, "Crabb, John D. (USADC)"
(b)(6) per EOUSA, "Crane, Laura (USADC)" (b)(6) per EOUSA, "Dinan, James
(USADC)" (b)(6) per EOUSA, "Donovan, Sharon (USADC)"
(b)(6) per EOUSA, "Earnest, Katherine (USADC)" (b)(6) per EOUSA
(b)(6) per EOUSA, "Evangelista, Alessio (USADC)" (b)(6) per EOUSA, "Fischer,
Elizabeth (USADC)" (b)(6) per EOUSA, "Floyd, Andrew (USADC)" (b)(6) per EOUSA
(b)(6) per EOUSA, "Giovannelli, John (USADC)" (b)(6) per EOUSA, "Gorman, David
(USADC)" (b)(6) per EOUSA, "Hill, John (USADC)" (b)(6) per EOUSA, "Hooks,
Jonathan (USADC)" (b)(6) per EOUSA, "Johnston, Julianne (USADC)" (b)(6) per EOUSA
(b)(6) per EOUSA, "Keeney, Terry J. (USADC)" (b)(6) per EOUSA, "Keil, Brittany
(USADC)" (b)(6) per EOUSA, "Kohl, Ken (USADC)" (b)(6) per EOUSA, "Kravis,
Jonathan (USADC)" (b)(6) per EOUSA, "Kurn, Sharon (USADC)"
(b)(6) per EOUSA, "Lazarus, Jodi Steiger (USADC)" (b)(6) per EOUSA, "Liu,
Jessie (USADC)" (b)(6) per EOUSA, "Long, Alicia (USADC)" (b)(6) per EOUSA
(b)(6) per EOUSA, "Maisel, Gregg (USADC)" (b)(6) per EOUSA, "Martin, Thomas (Pat)
(USADC)" (b)(6) per EOUSA, "Miller, Shelia (USADC)" (b)(6) per EOUSA
(b)(6) per EOUSA, "Nestler, Jeffrey
(USADC)" (b)(6) per EOUSA, "O'Brien, Mark (USADC)" (b)(6) per EOUSA
(b)(6) per EOUSA, "Okocha, Kenechukwu (USADC)" (b)(6) per EOUSA, "Prest, Stephen
(USADC)" (b)(6) per EOUSA, "Rickard, Stephen (USADC)"

(b)(6) per EOUSA "Rosen, Gregory (USADC)" (b)(6) per EOUSA, "Sexton,
Jean (USADC)" (b)(6) per EOUSA, "Tillman, Bridgette (USADC)"
(b)(6) per EOUSA, "Timmer, John (USADC)" (b)(6) per EOUSA, "Willoughby
Jr., Charles (USADC)" (b)(6) per EOUSA, "Zamarin, Michelle (USADC)"
(b)(6) per EOUSA >
Subject: NSS Weekly Report

Attached is the significant events report for NSS.

Memorandum

Timothy Shea
United States Attorney
District of Columbia



Subject:
Significant Events Report for NSS¹

Date:
February 1, 2020

To:
Timothy Shea, U.S. Attorney
Alessio Evangelista, Principal AUSA
John Crabb, Acting Chief, Criminal Div.

From:
Gregg Maisel, Chief
Ken Kohl, Deputy Chief
Denise Cheung, Deputy Chief
National Security Section

Weeks of January 27 – January 31, 2020
February 3 – January 7, 2020

In *U.S. v. Michael Flynn* (SCO referral), on 1/29, we filed our reply to the defense supplemental sentencing memo. Also on 1/29, the defense filed its supplemental motion to withdraw guilty plea and a motion to dismiss “for egregious government misconduct and in the interest of justice.” AUSA Ballantine; Brandon Van Grack (CES). FBI. J. Sullivan. Defense: Sidney Powell, Jesse Binnall.

Not Responsive Records

¹ Contains law enforcement sensitive, sealed, and grand jury information.

Evangelista, Alessio (USADC)

From: Evangelista, Alessio (USADC)
Sent: Saturday, February 1, 2020 5:38 PM
To: Shea, Timothy (OAG)
Subject: Fwd: NSS Weekly Report (USA edition)
Attachments: SignificantEventsReport_20200201 (USA edition).docx; ATT00001.htm; SignificantEventsReport_20200201 (USA edition).pdf; ATT00002.htm

Review this one instead.

Alessio D. Evangelista
Principal Assistant U.S. Attorney
District of Columbia
(202) 252-6620 (office)
(b)(6) per EOUSA (cell)

Begin forwarded message:

From: "Maisel, Gregg (USADC)" (b)(6) per EOUSA >
Date: February 1, 2020 at 5:21:32 PM EST
To: "Baker, Dineen (USADC)" (b)(6) per EOUSA
(b)(6) per EOUSA, "Bentley, Janean (USADC)" (b)(6) per EOUSA, "Cheung, Denise (USADC)" (b)(6) per EOUSA, "Cooney, Joseph (USADC)" (b)(6) per EOUSA, "Crabb, John D. (USADC)" (b)(6) per EOUSA >, "Crane, Laura (USADC)" (b)(6) per EOUSA, "Evangelista, Alessio (USADC)" (b)(6) per EOUSA, "Fischer, Elizabeth (USADC)" (b)(6) per EOUSA, "Hooks, Jonathan (USADC)" (b)(6) per EOUSA, "Kohl, Ken (USADC)" (b)(6) per EOUSA, "Kravis, Jonathan (USADC)" (b)(6) per EOUSA >, "Liu, Jessie (USADC)" (b)(6) per EOUSA, "Maisel, Gregg (USADC)" (b)(6) per EOUSA, "Martin, Thomas (Pat) (USADC)" (b)(6) per EOUSA, "Miller, Shelia (USADC)" (b)(6) per EOUSA, "Rosen, Gregory (USADC)" (b)(6) per EOUSA, "Zamarin, Michelle (USADC)" (b)(6) per EOUSA
Subject: NSS Weekly Report (USA edition)

Attached is the U.S. Attorney's edition of the significant events report for NSS. I will shortly circulate to the broader group a shorter version of this report that has removed the most sensitive info. This is the only report you need to print.

Memorandum

Timothy Shea
United States Attorney
District of Columbia



Subject:
Significant Events Report for NSS¹

Date:
February 1, 2020

To:
Timothy Shea, U.S. Attorney
Alessio Evangelista, Principal AUSA
John Crabb, Acting Chief, Criminal Div.

From:
Gregg Maisel, Chief
Ken Kohl, Deputy Chief
Denise Cheung, Deputy Chief
National Security Section

Weeks of January 27 – January 31, 2020
February 3 – January 7, 2020

In *U.S. v. Michael Flynn* (SCO referral), on 1/29, we filed our reply to the defense supplemental sentencing memo. Also on 1/29, the defense filed its supplemental motion to withdraw guilty plea and a motion to dismiss “for egregious government misconduct and in the interest of justice.” Next week: [REDACTED] (b)(5) per EOUSA [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]. We may need to seek additional time from the court to brief this issue. AUSA Ballantine; Brandon Van Grack (CES). FBI. J. Sullivan. Defense: Sidney Powell, Jesse Binnall.

Not Responsive Records

¹ Contains law enforcement sensitive, sealed, and grand jury information.

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Monday, February 3, 2020 3:57 PM
To: Levi, William (OAG); DuCharme, Seth (ODAG)
Subject: SIM Interim Guidance Memo 2.3.2020 Draft
Attachments: SIM Interim Guidance Memo 2.3.2020 Draft.docx

DRAFT / DELIBERATIVE

I think this can be finalized and signed tomorrow.

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Wednesday, February 5, 2020 11:31 AM
To: Gramley, Shannon (OAG)
Cc: Levi, William (OAG) (wlevi@jmd.usdoj.gov)
Subject: Memo
Attachments: SIM Interim Guidance Memo 2.3.2020 Draft.docx

Can you please work with our support folks to get this formatted onto DOJ/OAG letterhead?

Brian C. Rabbitt
Chief of Staff & Sr. Counselor to the Attorney General
U.S. Department of Justice
T: (202) 514-3893
M: (b) (6)
Brian.Rabbitt@usdoj.gov

Hovakimian, Patrick (ODAG)

From: Hovakimian, Patrick (ODAG)
Sent: Wednesday, February 5, 2020 3:24 PM
To: Rosen, Jeffrey A. (ODAG)
Subject: Fwd: AG Memorandum for Heads of Department Components Additional Requirements for the Opening of Certain Sensitive Investigations
Attachments: Memorandum from the Attorney General - Additional Requirements for the Opening of Certain Sensitive Investigations.pdf; ATT00001.htm

AG memo attached.

Patrick Hovakimian

(b) (6)

Begin forwarded message:

From: "Paige, Dana E (JMD)" <dpaige@jmd.usdoj.gov>
Date: February 5, 2020 at 3:19:47 PM EST
To: "Heads of Department Components (JMD)"
<HeadsOfDepartmentComponents@jmd.usdoj.gov>
Subject: AG Memorandum for Heads of Department Components Additional Requirements for the Opening of Certain Sensitive Investigations



**Office of the Attorney General
Washington, D. C. 20530**

February 5, 2020

**MEMORANDUM FOR ALL UNITED STATES ATTORNEYS
ALL DEPARTMENT COMPONENT HEADS
ALL LAW ENFORCEMENT AGENCY HEADS**

FROM: THE ATTORNEY GENERAL *W. Barr*
**SUBJECT: ADDITIONAL REQUIREMENTS FOR THE OPENING OF
CERTAIN SENSITIVE INVESTIGATIONS**

The Department of Justice, along with other federal agencies, is charged with the responsibility of protecting the integrity of our elections and democratic system of government against improper influences. While the Department must respond swiftly and decisively when faced with credible threats to our democratic processes, we also must be sensitive to safeguarding the Department's reputation for fairness, neutrality, and nonpartisanship. In certain cases, the existence of a federal criminal or counter-intelligence investigation, if it becomes known to the public, may have unintended effects on our elections. For this reason, the Department has long recognized that it must exercise particular care regarding sensitive investigations and prosecutions that relate to political candidates, campaigns, and other politically sensitive individuals and organizations – especially in an election year.¹

As we enter the 2020 election year, the Department remains committed to ensuring that this fall's elections are conducted in a fair manner that is free from inappropriate influences. Accordingly, I am establishing the following requirements to govern the opening of criminal and counter-intelligence investigations by the Department, including its law enforcement agencies, relating to politically sensitive individuals and entities. These requirements are intended to operate in addition to all existing policies governing the opening of sensitive investigations, including all notice, consultation, and approval requirements currently found in the Justice Manual and those in place at the Department's law enforcement agencies.

¹ See, e.g., Loretta Lynch, Attorney General, U.S. Department of Justice, Mem. for all Department Employees, Election Year Sensitivities, April 11, 2016; Eric Holder, Attorney General, U.S. Department of Justice, Mem. for all Department Employees, Election Year Sensitivities, March 9, 2012; Michael Mukasey, Attorney General, U.S. Department of Justice, Mem. for all Department Employees, Election Year Sensitivities, March 5, 2008.

No investigation (including any preliminary investigation)² may be opened or initiated by the Department or any of its law enforcement agencies:

1. Of a Declared candidate for president or vice president, a presidential campaign, or a senior presidential campaign staff member or advisor³ absent prior (i) written notification to and consultation with the Assistant Attorney(s) General and U.S. Attorney(s) with jurisdiction over the matter and (ii) written approval of the Attorney General, through the Deputy Attorney General;
2. Of a Declared candidate for U.S. Senate or U.S. House of Representatives, or his or her campaign, absent prior written notification to and consultation with the Assistant Attorney(s) General and U.S. Attorney(s) with jurisdiction over the matter;
3. Relating to illegal contributions, donations, or expenditures by foreign nationals to a presidential or congressional campaign absent prior written notification to the Assistant Attorney(s) General and U.S. Attorney(s) with jurisdiction over the matter.

Department law enforcement agencies are directed to adopt appropriate internal policies and procedures to ensure that the agency head reviews and approves any matter covered by this memorandum before the matter is presented to Department leadership for consultation or approval.

As a general matter, it is often good practice to notify the Office of the Deputy Attorney General (ODAG) concerning any sensitive or high-profile investigation to ensure that the Department can effectively coordinate its resources and efforts. Accordingly, once an investigation covered by this memorandum has been opened, component and law enforcement agency heads should make arrangements to provide ODAG with regular updates. Per the Justice Manual, U.S. Attorneys and component heads also should provide updates to Department leadership via Urgent Reports when appropriate.

The scope of this memorandum should be broadly construed to ensure that Department leadership is made aware of the opening of matters that could potentially be disruptive to our democratic processes if publicly disclosed prior to an election. You should err on the side of consulting or seeking approval if there could be any question as to whether such actions are required under this policy.

² Upon opening an assessment of, or taking exploratory investigative steps relating to, any person or campaign covered by this memorandum, law enforcement agencies shall promptly notify in writing the Assistant Attorney(s) General and U.S. Attorney(s) with jurisdiction over the matter.

³ This includes any person who has been publicly announced by a campaign as a staffer or member of an official campaign advisory committee or group.

The requirements set forth in this memorandum shall remain in effect through the 2020 elections and until withdrawn or amended by further order of the Attorney General. Following the 2020 elections, the Department will study its experiences and consider whether changes to these requirements are necessary. In addition, I am directing that Department components and law enforcement agencies review their existing policies governing notification, consultation, and/or approval of politically sensitive investigations and that each submit a report to ODAG within sixty (60) days summarizing their existing policies and making recommendations for any necessary changes or updates.

As noted, the Department has a strong interest in the prosecution of election-related crimes, including those involving corruption of the election process. Yet we must investigate and prosecute those matters with sensitivity and care to ensure that the Department's actions do not unnecessarily advantage or disadvantage any candidate or political party. As always, I rely on you to exercise your sound judgment in pursuing all meritorious cases while at the same time maintaining our duty to protect the First Amendment rights of our citizens and their right to participate in a democratic electoral process free from improper activity or influences.

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Wednesday, February 5, 2020 3:26 PM
To: Levi, William (OAG); Sofer, Gregg (OAG); DuCharme, Seth (ODAG)
Subject: FW: AG Memorandum for Heads of Department Components Additional Requirements for the Opening of Certain Sensitive Investigations
Attachments: Memorandum from the Attorney General - Additional Requirements for the Opening of Certain Sensitive Investigations.pdf

From: Paige, Dana E (JMD) <dpaige@jmd.usdoj.gov>
Sent: Wednesday, February 5, 2020 3:20 PM
To: Heads of Department Components (JMD) <HeadsOfDepartmentComponents@jmd.usdoj.gov>
Subject: AG Memorandum for Heads of Department Components Additional Requirements for the Opening of Certain Sensitive Investigations

Good afternoon,

Please see attached memorandum on Additional Requirements for the Opening of Certain Sensitive Investigations, dated February 5, 2020.

Attachment:

Additional Requirements for the Opening of Certain Sensitive Investigations

Respectfully submitted,

Dana E. Rollochi-Paige
Director
Departmental Executive Secretariat
202-616-2374

DuCharme, Seth (ODAG)

From: DuCharme, Seth (ODAG)
Sent: Wednesday, February 5, 2020 10:43 PM
To: Rosen, Jeffrey A. (ODAG)
Subject: Fwd: AG Memorandum for Heads of Department Components Additional Requirements for the Opening of Certain Sensitive Investigations
Attachments: Memorandum from the Attorney General - Additional Requirements for the Opening of Certain Sensitive Investigations.pdf; ATT00001.htm

Memo attached

Sent from my iPhone

Begin forwarded message:

From: "Rabbitt, Brian (OAG)" <brrabbitt@jmd.usdoj.gov>
Date: February 5, 2020 at 3:25:47 PM EST
To: "Levi, William (OAG)" <wlevi@jmd.usdoj.gov>, "Sofer, Gregg (OAG)" <gsofer@jmd.usdoj.gov>, "DuCharme, Seth (ODAG)" <seducharme@jmd.usdoj.gov>
Subject: FW: AG Memorandum for Heads of Department Components Additional Requirements for the Opening of Certain Sensitive Investigations

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Thursday, February 6, 2020 8:22 AM
To: Kupec, Kerri (OPA)
Subject: Fwd: AG Memorandum for Heads of Department Components Additional Requirements for the Opening of Certain Sensitive Investigations
Attachments: Memorandum from the Attorney General - Additional Requirements for the Opening of Certain Sensitive Investigations.pdf; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: "Paige, Dana E (JMD)" <dpaige@jmd.usdoj.gov>
Date: February 5, 2020 at 3:19:46 PM EST
To: "Heads of Department Components (JMD)"
<HeadsOfDepartmentComponents@jmd.usdoj.gov>
Subject: AG Memorandum for Heads of Department Components Additional Requirements for the Opening of Certain Sensitive Investigations

?

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

Plaintiff,

v.

MICHAEL T. FLYNN,

Defendant.

Criminal Action No. 17-232-EGS

**MR. FLYNN'S RESPONSE AND NOTICE OF CONSENT TO THE
GOVERNMENT'S MOTION TO STAY THE SCHEDULE**

This morning, Sunday, February 9, 2020, the government filed two motions with this Court: First, a Motion to Amend Briefing Schedule, ECF No. 165; and, Second, a Motion for an Order Confirming Waiver of Attorney Client Privilege, ECF No. 164 ("Motion to Confirm Waiver"). Both the relief requested and the reasons underlying the government's Motion to Amend have changed since it conferred with the defense earlier last week. Given the government's Motion to Confirm Waiver, which raises issues the government did not mention previously, Michael T. Flynn ("Mr. Flynn") does not oppose the Court granting a stay of the briefing schedule with a status report due from the parties by February 20, 2020. However, it is imperative that Mr. Flynn have time to brief the issues raised by the government's new motion regarding the attorney-client privilege.

Pursuant to D.C. Local Criminal Rule 47, and because of the importance and complexity of the issues surrounding the attorney-client privilege, Mr. Flynn advises the Court and the government that he will file a response to the government's Motion to Confirm Waiver within the fourteen (14) days afforded him under this Court's rules. LCrR47(b). Furthermore, Mr. Flynn may

also request a meaningful opportunity to meet and confer with the government on the issues it has raised in its Motion regarding the Waiver of the Attorney-Client Privilege as it may be possible to resolve it by agreement. It will be February 17 or 18 before counsel for Mr. Flynn could arrange to attend such a meeting.

For these reasons, Mr. Flynn agrees and requests that the schedule be abated or stayed until further briefing by the parties and order of this Court.

Dated: February 9, 2020

W. William Hodes
The William Hodes Law Firm
3658 Conservation Trail
The Villages, Florida 32162
Tel: (352) 399-0531
Fax: (352) 240-3489
Admitted *Pro Hac Vice*

Respectfully submitted,

/s/ Sidney Powell
Sidney Powell
Molly McCann
Sidney Powell, P.C.
2911 Turtle Creek Blvd.,
Suite 300
Dallas, Texas 75219
Tel: 214-707-1775
sidney@federalappeals.com
Admitted *Pro Hac Vice*
molly@federalappeals.com
Admitted *Pro Hac Vice*

/s/ Jesse R. Binnall
Jesse R. Binnall
Lindsay R. McKasson
Harvey & Binnall, PLLC
717 King Street, Suite 300
Alexandria, VA 22314
Tel: (703) 888-1943
Fax: (703) 888-1930
jbinnall@harveybinnall.com
lmckasson@harveybinnall.com
Admitted *Pro Hac Vice*

CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2020, a true and genuine copy of Mr. Flynn's Response to and Agreement with the Government's Motion to Stay was served by CM/ECF system to all counsel of record, including:

Timothy Shea, U.S. Attorney for the District of Columbia
Jocelyn Ballantine, Assistant U.S. Attorney
555 4th Street, NW
Washington, D.C. 20530

Respectfully submitted,

/s/ Jesse R. Binnall
Jesse R. Binnall, VSB# 79272
HARVEY & BINNALL, PLLC
717 King Street, Suite 300
Alexandria, VA 22314
Tel: (703) 888-1943
Fax: (703) 888-1930
jbinnall@harveybinnall.com

From: [DCD ECFNotice@dcd.uscourts.gov](mailto:DCD_ECFNotice@dcd.uscourts.gov) <[DCD ECFNotice@dcd.uscourts.gov](mailto:DCD_ECFNotice@dcd.uscourts.gov)>
Sent: Monday, February 10, 2020 2:26 PM
To: [DCD ECFNotice@dcd.uscourts.gov](mailto:DCD_ECFNotice@dcd.uscourts.gov)
Subject: Activity in Case 1:17-cr-00232-EGS USA v. FLYNN Order on Motion to Continue

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

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U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 2/10/2020 at 2:25 PM EDT and filed on 2/10/2020

Case Name: USA v. FLYNN

Case Number: [1:17-cr-00232-EGS](#)

Filer:

Document Number: No document attached

Document Number: No document attached

Docket Text:

MINUTE ORDER as to MICHAEL T. FLYNN granting [165] Government's Motion to Continue Briefing Deadlines for Motion to Withdraw. The Court hereby SUSPENDS the current briefing schedule concerning Mr. Flynn's Supplemental Motion to Withdraw his Plea of Guilty. The government shall file a status report by no later than 12:00 PM on February 20, 2020, informing the Court of the status of the government's evaluation of the ineffective assistance of counsel claims in Mr. Flynn's Supplemental Motion to Withdraw his Plea of Guilty and proposing briefing deadlines. The Court hereby CANCELS the sentencing hearing currently scheduled for February 27, 2020 until further Order of the Court. Signed by Judge Emmet G. Sullivan on 2/10/2020. (lcegs3)

1:17-cr-00232-EGS-1 Notice has been electronically mailed to:

Jocelyn S. Ballantine (b)(6) per EOUSA USADC.CriminalDocket@usdoj.gov

Brandon Lang Van Grack (b)(6) per EOUSA (b)(6) per EOUSA (b)(6) per EOUSA

Jesse R. Binnall jbinnall@harveybinnall.com, Tricia@federalappeals.com,
dfox@harveybinnallecom, sidney@federalappeals.com

Zainab Naeem Ahmad (b)(6) per EOUSA

W. William Hodes wwh@hodeslaw.com

Lindsay R. McKasson lmckasson@harveybinnall.com

Molly McCann (b) (6)

1:17-cr-00232-EGS-1 Notice will be delivered by other means to::

From: DCD_ECFNotice@dcd.uscourts.gov <DCD_ECFNotice@dcd.uscourts.gov>
Sent: Monday, February 10, 2020 2:30 PM
To: DCD_ECFNotice@dcd.uscourts.gov
Subject: Activity in Case 1:17-cr-00232-EGS USA v. FLYNN Order

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 2/10/2020 at 2:29 PM EDT and filed on 2/10/2020

Case Name: USA v. FLYNN

Case Number: [1:17-cr-00232-EGS](#)

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER re: MICHAEL T. FLYNN filed 02/10/2020 15:29

MINUTE ORDER AS TO MICHAEL T. FLYNN. Upon consideration of [164] Government's Motion for Order Confirming Waiver of Attorney Client Privilege as to Contest Matters and [166] Defendant's Response, the parties shall meet and confer concerning the government's motion for an Order from this Court confirming the waiver of the attorney-client privilege with respect to Mr. Flynn's ineffective assistance of counsel claims against the law firm of Covington & Burling LLP and authorizing the disclosure of information to government counsel. It is FURTHER ORDERED that the parties shall file a joint proposed order setting forth the terms of the waiver of the attorney-client privilege and the authorization of disclosure of information with respect to Mr. Flynn's ineffective assistance of counsel claims by no later than 12:00 PM on February 24, 2020. In the event that the parties are unable to reach an agreement on the waiver of attorney-client privilege and disclosure of information issues, Mr. Flynn shall file his opposition brief by no later than 12:00 PM on February 24, 2020, and the government shall file its reply brief by no later than 12:00 PM on March 2, 2020. Signed by Judge Emmet G. Sullivan on 2/10/2020. (lcegs3)

1:17-cr-00232-EGS-1 Notice has been electronically mailed to:

Jocelyn S. Ballantine (b)(6) per EOUSA, USADC.CriminalDocket@usdoj.gov

Brandon Lang Van Grack (b)(6) per EOUSA, (b)(6) per EOUSA, (b)(6) per EOUSA

Jesse R. Binnall jbinnall@harveybinnall.com, Tricia@federalappeals.com,
dfox@harveybinnall.com, sidney@federalappeals.com

Zainab Naeem Ahmad (b)(6) per EOUSA

W. William Hodes wwh@hodeslaw.com

Lindsay R. McKasson lmckasson@harveybinnall.com

Molly McCann (b) (6)

1:17-cr-00232-EGS-1 Notice will be delivered by other means to::

DuCharme, Seth (ODAG)

From: DuCharme, Seth (ODAG)
Sent: Tuesday, February 11, 2020 11:21 PM
To: Nobile, James (USANJ)
Subject: Re: Follow up

Thanks, Jim.

Sent from my iPhone

On Feb 11, 2020, at 2:47 PM, Nobile, James (USANJ) (b)(6) per EOUSA > wrote:

(b)(5) per EOUSA

A large black rectangular redaction box covering several lines of text.

(b)(5) per EOUSA

A large black rectangular redaction box covering approximately ten lines of text.

Please advise if this is correct.

Thanks again Seth. Jim

DuCharme, Seth (ODAG)

From: DuCharme, Seth (ODAG)
Sent: Tuesday, February 11, 2020 11:23 PM
To: Hovakimian, Patrick (ODAG); Levi, William (OAG)
Subject: Fwd: Follow up

Report from D/NJ about sensitive case opening.


Does not involve a matter involving a federal candidate or senior presidential campaign staff member or advisor, a federal campaign, or contributions/expenditures by foreign nationals in connection with a federal campaign.

Sent from my iPhone

Begin forwarded message:

From: "Nobile, James (USANJ)" (b)(6) per EOUSA
Date: February 11, 2020 at 2:47:28 PM EST
To: "DuCharme, Seth (ODAG)" <seducharme@jmd.usdoj.gov>
Subject: Follow up

Duplicative Material



Sean Davis

From: Sean Davis
Sent: Wednesday, February 12, 2020 1:45 PM
To: (b)(6) per EOUSA | (b)(6) per EOUSA
Subject: Request for comment re: Brandon Van Grack

Sean from The Federalist here. I have a few questions/requests for comment re: Van Grack's work on the Flynn case.

Why has he not been removed as counsel from the Flynn case given that he's a material witness to the defense's claim of ineffective assistance of counsel?

Additionally, why has Van Grack not been disciplined in any way for pulling the same stunt with sentencing against Flynn that Zelinsky, Jed, Kravis, and Marando pulled on Stone?

Is there any supervision at all of Mueller-connected AUSAs in your office? Any examples you could provide would be much appreciated.

Thank you.

Metcalf, David (USADC)

From: Metcalf, David (USADC)
Sent: Wednesday, February 12, 2020 4:27 PM
To: Levi, William (OAG)
Subject: Stone Pleadings
Attachments: Stone Draft PSR.pdf; CREDICOsentltr12020.pdf; Response to Stone PSR 1.30.20.pdf; Response to Stone PSR 1.30.20.- Supplemented -Final.pdf; attachment 1.pdf; Filed Stone Amended Sentencing Memo.pdf

In order:

- (1) The Presentence Investigation Report
- (2) The Submitted Mitigation Letter of Randy Credico (victim of the threat)
- (3) The Defendant's Objections to the Presentence Investigation Report
- (4) The Government's Initial Sentencing Memorandum (titled Attachment 1)
- (5) The Government's Supplemental and Amended Sentencing Memorandum

David Metcalf

(b)(6) per EO 13526

Sofer, Gregg (OAG)

From: Sofer, Gregg (OAG)
Sent: Wednesday, February 12, 2020 9:54 PM
To: Levi, William (OAG)
Cc: Rabbitt, Brian (OAG)
Subject: Re: question about AG's Sensitive Investigation Memo

Will do.

Gregg

On Feb 12, 2020, at 9:48 PM, Levi, William (OAG) <wlevi@jmd.usdoj.gov> wrote:

?

I would refer this to ODAG, especially since any such policies would be sent to ODAG. ODAG is also already sifting through other such questions.

From: Sofer, Gregg (OAG) <gsofer@jmd.usdoj.gov>
Sent: Wednesday, February 12, 2020 3:06 PM
To: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>; Levi, William (OAG) <wlevi@jmd.usdoj.gov>
Subject: FW: question about AG's Sensitive Investigation Memo

Brian and Will,

There is a question about the application of the February 5, 2020 AG Memo on Certain Sensitive Investigations. The memo directs all Department components to *review their existing policies governing notification, consultation and/or approval of politically sensitive investigations and ... submit a report to ODAG within sixty days summarizing their existing policies and making recommendations for any necessary changes or updates.* The question is (b) (5)

[REDACTED]

[REDACTED] Let me know your thoughts and/or whether you want to discuss further.

Gregg

From: Smith, David L. (USAEO) <(b)(6) per EOUSA>
Sent: Thursday, February 6, 2020 4:01 PM
To: Sofer, Gregg (OAG) <gsofer@jmd.usdoj.gov>
Subject: FW: question about AG's Sensitive Investigation Memo

Hi Greg, (b) (5)

[REDACTED]
[REDACTED] ?

Thanks

Dave
Dave

Nobile, James (USANJ)

From: Nobile, James (USANJ)
Sent: Thursday, February 13, 2020 3:43 PM
To: DuCharme, Seth (ODAG)
Subject: RE: Follow up

Now until cob

From: DuCharme, Seth (ODAG) <seducharme@jmd.usdoj.gov>
Sent: Thursday, February 13, 2020 2:58 PM
To: Nobile, James (USANJ) (b)(6) per EOUSA >
Subject: Re: Follow up

Just tried you. When's a good window?

Sent from my iPhone

On Feb 13, 2020, at 2:22 PM, Nobile, James (USANJ) (b)(6) per EOUSA > wrote:

(b)(6) per EOUSA

From: DuCharme, Seth (ODAG) <seducharme@jmd.usdoj.gov>
Sent: Thursday, February 13, 2020 2:13 PM
To: Nobile, James (USANJ) (b)(6) per EOUSA
Subject: Re: Follow up

What's the best number?

Sent from my iPhone

On Feb 13, 2020, at 1:33 PM, Nobile, James (USANJ) (b)(6) per EOUSA > wrote:

Yes Seth. Do you have time for a quick call today?

From: DuCharme, Seth (ODAG) <seducharme@jmd.usdoj.gov>
Sent: Thursday, February 13, 2020 1:31 PM
To: Nobile, James (USANJ) (b)(6) per EOUSA
Subject: Re: Follow up

Jim, did I miss a call from you? Sorry I've been hard to reach.

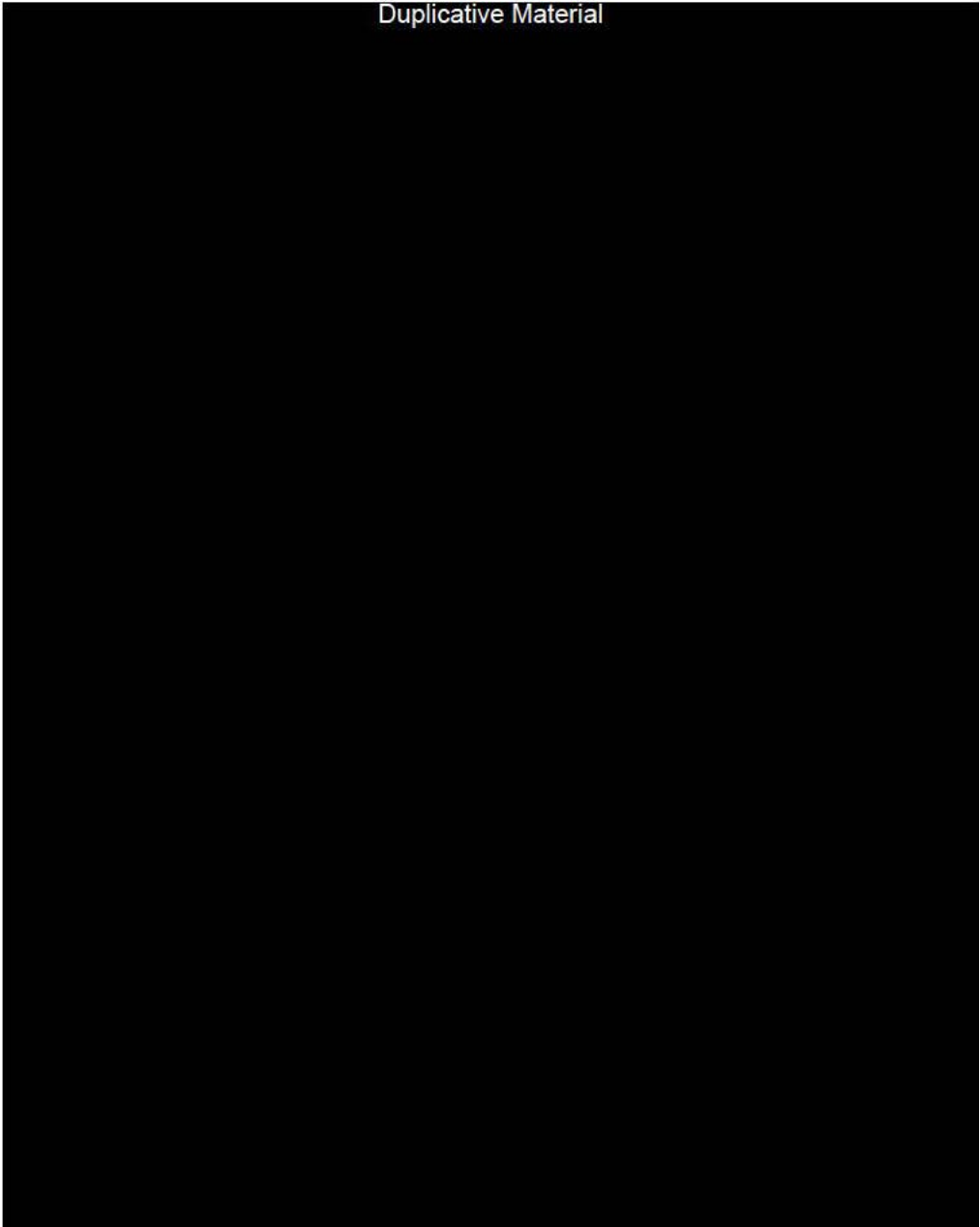
Sent from my iPhone

sent from my iPhone

On Feb 11, 2020, at 2:47 PM, Nobile, James (USANJ)

(b)(6) per EOUSA >wrote:

Duplicative Material



John Flores

From: John Flores
Sent: Monday, February 17, 2020d11:41 AM
To: Hamilton, Gene (OAG)
Subject: Unfair attacks on the AG

Gene, who is handling the Stone response for the AG? While I was at Justice during the Clinton Administration— no one sought the resignation of the AG for taking actions (in Barr's case independent from the President's tweet), in line with the President's desires. It happened all the time in the Clinton Administration. I was there and was involved in helping AG Reno fix problems the President publicly wanted fixed. It also happened during Obama— CNN, Forbes— etc., all criticized the President, but no one sought the AG's ouster— this is partisan and there are good hard examples that the President and AG can use to defend themselves. I don't want to talk to you more than this if you're not involved, as I'm sure you're busy, but if you're not involved, please tell me who to call. Thanks Bob

J. Robert Flores, Esq.

(b) (6)

The information contained in this transmission is for the use of the individual or entity to wh it is addressed. This message may contain information that is privileged, confidential, attorney work product, and/or exempt from disclosure under applicable law. If you are not the intended recipient (or the employee or agent responsible for delivering it to the intended recipient), you are hereby notified that any dissemination, distribution, or copying of this communication is prohibited. If you have received this communication in error, please notify us immediately at 703-609-8731 and delete the original message from your email system.

Marlene Colucci

From: Marlene Colucci
Sent: Wednesday, February 19, 2020 10:38 AM
To: Rabbitt, Brian (OAG)
Cc: Laura Boring; MaryPat Decker; Adrienne Ball
Subject: Fwd: Attorney General William Barr Questions / February 20
Attachments: m055-3 William BARR (Business Council Interview - February 20- WDC).docx; February 2020 Final Agenda.docx; BC Members Attending Feb. 2020 Mtg. as of 2-10-20.pdf

Brian,

Attached are a list of the Questions David has prepared for the "Fireside Chat". Please review them and let us know if there are any changes or additions. I am copying MaryPat and Laura in David's office so they can note any changes.

David is traveling today but we can see if there is time for the two of you to chat today or tomorrow.

I am also resending the agenda and list of attendees.

Warmest regards,

Marlene

Marlene Colucci
EXECUTIVE DIRECTOR



T: 202-298-7650

C: (b) (6)

F: 202-785-0296

The Business Council Meeting
David Rubenstein in Conversation with Attorney General William Barr
Location: The Kennedy Center - REACH
Thursday, February 20, 2020

1. Why did you want to give up your peaceful and lucrative life in the private sector to return to government, and to a position that you had held 25 years ago?
2. Since leaving as Attorney General under Bush 41, what were your principal legal and private sector activities?
3. Now that you are back at Justice, what are the principal changes in the Department over these last 25 years? Has technology become much more important at Justice?
4. Did you know President Trump before he was elected? How did you come to know or deal with him when he became President?
5. Did you write him a memo about the power of the Executive Branch under the Constitution? Has your view about Presidential power been a long held one?
6. When the Mueller Report was finalized, you were criticized by some for not immediately releasing the whole Report and for summarizing its conclusions in a most favorable way to President Trump. How do you respond to that criticism?
7. Do you view yourself – as probably Bobby Kennedy did – as the President' lawyer, or as the head of the Justice Department, without any obligation to defend the President personally?
8. In hindsight, do you think the Justice Department – and really Ron Rosenstein – was justified in having a special counsel?
9. When you became Attorney General, did you have any understanding with the President about the ground rules relating to his getting involved in civil or criminal proceedings?
10. The recent controversy over the Roger Stone sentencing has obviously received enormous attention. Did you decide without Presidential or White House involvement that the initial 7-9 year recommendation from the career prosecutors was too high? Wasn't that recommendation exactly what the sentencing guidelines called for?

The Business Council Meeting
David Rubenstein in Conversation with Attorney General William Barr
Location: The Kennedy Center - REACH
Thursday, February 20, 2020

11. When the President tweeted about the proposed sentencing, was that the first you heard about his concern?
12. Was your expression of concern about Presidential tweets in this area orchestrated in any way with the White House? Was it the appearance which so upset you?
13. You have recently appointed an outsider – a U.S. attorney not involved in the case – to review the General Flynn case. Why was that necessary? Did the President ask you to do that, directly or indirectly?
14. The Justice Department has apparently opened a channel to receive information gathered by Rudy Giuliani on corruption in Ukraine. Is that an unusual step? Can any citizen get such a channel?
15. Over 2,000 former Justice Department officials have signed a letter saying that your recent actions require you to resign. Any thoughts along those lines?
16. Is this the only time you have ever become involved in the Department's sentencing recommendations? Do you expect to do so again?
17. During the recent impeachment trial, one of the President's lawyers, Alan Dershowitz, said that anything the President does is legal if he thinks it is in pursuit of helping his Presidency. Does the Department of Justice agree with that view?
18. Is it the Department's policy to give a heads up to the White House on major actions about to be taken by the Justice Department? Was there any feedback from the White House staff or the President about the decision to not prosecute Andrew McCabe? Was that decision effectively forced by the judge overseeing the grand jury in that case? Do you agree with the President that he has the right to weigh in on these kind of decisions?
19. What are your highest priorities as Attorney General? Major policy initiatives?

The Business Council Meeting
David Rubenstein in Conversation with Attorney General William Barr
Location: The Kennedy Center - REACH
Thursday, February 20, 2020

20. Do you have a list of potential Supreme Court nominations if a vacancy should arise?
Do you think it's too late in the President's term to have another Justice confirmed if a vacancy should arise soon?
21. How often do you talk to or meet with the President?
22. Do you expect to stay for the whole first term? Any interest in staying for part or all of a second term?
23. Do you still have time to play the bagpipes?

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Wednesday, February 19, 2020 11:42 AM
To: Watson, Theresa (OAG)
Subject: m055-3 William BARR (Business Council Interview - February 20- WDC).docx
Attachments: m055-3 William BARR (Business Council Interview - February 20- WDC).docx;
ATT00001.txt

Can you print?

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Wednesday, February 19, 2020 1:12 PM
To: Marlene Colucci
Cc: Laura Boring; MaryPat Decker; Adrienne Ball
Subject: RE: Attorney General William Barr Questions / February 20
Attachments: m055-3 William BARR (Business Council Interview - February 20- WDC) - edits.docx

Hi Marlene,

To save everyone time, I've taken the liberty of making edits, in redline, to the proposed questions. I've removed a handful of questions that we probably won't be able to get into tomorrow, and I've added another set that David may be interested in asking given the makeup of the audience. I am happy to discuss with you or David at your convenience.


Best,

BR

Brian C. Rabbitt
Chief of Staff & Sr. Counselor to the Attorney General
U.S. Department of Justice
T: (202) 514-3893
M: (b) (6)
Brian.Rabbitt@usdoj.gov

From: Marlene Colucci <mcolucci@businesscouncil.com>
Sent: Wednesday, February 19, 2020 10:38 AM
To: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Cc: Laura Boring <Laura.Boring@carlyle.com>; MaryPat Decker <marypat.decker@carlyle.com>; Adrienne Ball <aball@businesscouncil.com>
Subject: Fwd: Attorney General William Barr Questions / February 20

Duplicative Material



The Business Council Meeting
David Rubenstein in Conversation with Attorney General William Barr
Location: The Kennedy Center - REACH
Thursday, February 20, 2020

1. Why did you want to give up your peaceful and lucrative life in the private sector to return to government, and to a position that you had held 25 years ago?
2. Since leaving as Attorney General under Bush 41, what were your principal legal and private sector activities?
3. Now that you are back at Justice, what are the principal changes in the Department over these last 25 years? Has technology become much more important at Justice?
4. Did you know President Trump before he was elected? How did you come to know or deal with him when he became President?
5. Did you write him a memo about the power of the Executive Branch under the Constitution? Has your view about Presidential power been a long held one?
6. When the Mueller Report was finalized, you were criticized by some for not immediately releasing the whole Report and for summarizing its conclusions in a most favorable way to President Trump. How do you respond to that criticism?
7. Do you view yourself – as probably Bobby Kennedy did – as the President’ lawyer, or as the head of the Justice Department, without any obligation to defend the President personally?
8. In hindsight, do you think the Justice Department – and really Ron Rosenstein – was justified in having a special counsel?
9. When you became Attorney General, did you have any understanding with the President about the ground rules relating to his getting involved in civil or criminal proceedings?
10. The recent controversy over the Roger Stone sentencing has obviously received enormous attention. ~~Did you decide without Presidential or White House involvement that the initial 7-9 year recommendation from the career prosecutors was too high? Wasn’t that recommendation exactly what the sentencing guidelines called for?~~ Media reports suggest that supervisors in the D.C. U.S. Attorney’s Office, including the U.S. Attorney, disagreed with the recommendation of the line prosecutors on the case, and you ultimately weighed

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in on the Department's sentencing recommendation. Commentators have questioned your involvement. Do you feel that it is important for line prosecutors to be supervised? Why? In your view, is it appropriate to have political officials in the Department supervising sensitive matters?

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11. The President's tweets on the Stone and other matters, and your reaction, have also received a tremendous amount of media attention in recent days. Why do the President's statements concern you? Why do they make your job "impossible," as you said during your recent ABC interview?

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12. Media reports have suggested that you have taken an interest in a number of sensitive investigations at the Department, which some have said is unusual for an Attorney General. Do you feel that it is inappropriate for the Attorney General to be directly involved in sensitive matters? Why or why not?

11. When the President tweeted about the proposed sentencing, was that the first you heard about his concern?

12. Was your expression of concern about Presidential tweets in this area orchestrated in any way with the White House? Was it the appearance which so upset you?

13. You have recently appointed an outsider—a U.S. attorney not involved in the case—to review the General Flynn case. Why was that necessary? Did the President ask you to do that, directly or indirectly?

14. The Justice Department has apparently opened a channel to receive information gathered by Rudy Giuliani on corruption in Ukraine. Is that an unusual step? Can any citizen get such a channel?

15. Over 2,000 former Justice Department officials have signed a letter saying that your recent actions require you to resign. Any thoughts along these lines?

16. Is this the only time you have ever become involved in the Department's sentencing recommendations? Do you expect to do so again?

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~~17.16.~~ —During the recent impeachment trial, one of the President’s lawyers, Alan Dershowitz, said that anything the President does is legal if he thinks it is in pursuit of helping his Presidency. Does the Department of Justice agree with that view?

~~18. Is it the Department’s policy to give a heads up to the White House on major actions about to be taken by the Justice Department? Was there any feedback from the White House staff or the President about the decision to not prosecute Andrew McCabe? Was that decision effectively forced by the judge overseeing the grand jury in that case? Do you agree with the President that he has the right to weigh in on these kind of decisions?~~

~~19.17.~~ What are your highest priorities as Attorney General? Major policy initiatives?

18. You recently gave a speech on the future of 5G technology and the threat posed by China and Huawei. Some have said it is unusual for an Attorney General to be so involved in an area like this. Why do you feel the need to speak on this topic as Attorney General? How do you view the threat and what does the U.S. need to do? Does your background in telecommunications at Verizon color your thinking on this issue?

19. In your speech, you seemed to suggest that the U.S. and its allies should perhaps join together to purchase or back an alternative to China’s Huawei, like Nokia or Ericsson. Why do you think that is an important? Should the U.S. really be in the business of endorsing and supporting private companies?

20. Since becoming Attorney General, you’ve spoken frequently about the challenges posed by encryption and the need for law enforcement to have what you have termed “lawful access” to communications and stored media. Why is this such an important issue for you and the Department?

21. Advocates of encryption say that it provides much-needed protection against hackers and other bad actors in an increasingly digital world. They say that providing law enforcement with a “back door” into their systems will make them vulnerable to

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cybercriminals. How do you propose to balance the benefits provided by encryption against the need for what you term "lawful access"?

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22. The DOJ has made headlines in recent months for its review of leading technology companies. Given how pervasive social media and online platforms are in everyday life, the DOJ's work in this area will obviously have large implications for many Americans. What motivated you to undertake this review? What concerns do you have about these companies? Can you give us an update on the progress of the review and where you see it going?

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20-23. Do you have a list of potential Supreme Court nominations if a vacancy should arise? Do you think it's too late in the President's term to have another Justice confirmed if a vacancy should arise soon?

21-24. How often do you talk to or meet with the President?

22-25. Do you expect to stay for the whole first term? Any interest in staying for part or all of a second term?

23-26. Do you still have time to play the bagpipes?

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Location: The Kennedy Center - REACH
Thursday, February 20, 2020

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Wednesday, February 19, 2020 3:30 PM
To: MaryPat Decker; Marlene Colucci
Cc: Laura Boring; Adrienne Ball; Robert Haben; Laura Boring
Subject: RE: Attorney General William Barr Questions / February 20
Attachments: m055-3 William BARR (Business Council Interview - February 20- WDC) - edits v2.docx

Thanks, MaryPat. The AG would like to speak with David, if possible, before tomorrow. In addition, attached is an updated version of proposed edits to the questions. Thanks. BR

From: MaryPat Decker <MaryPat.Decker@carlyle.com>
Sent: Wednesday, February 19, 2020 2:08 PM
To: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>; Marlene Colucci <mcolucci@businesscouncil.com>
Cc: Laura Boring <Laura.Boring@carlyle.com>; Adrienne Ball <aball@businesscouncil.com>; Robert Haben <Robert.Haben@carlyle.com>; Laura Boring <Laura.Boring@carlyle.com>
Subject: RE: Attorney General William Barr Questions / February 20

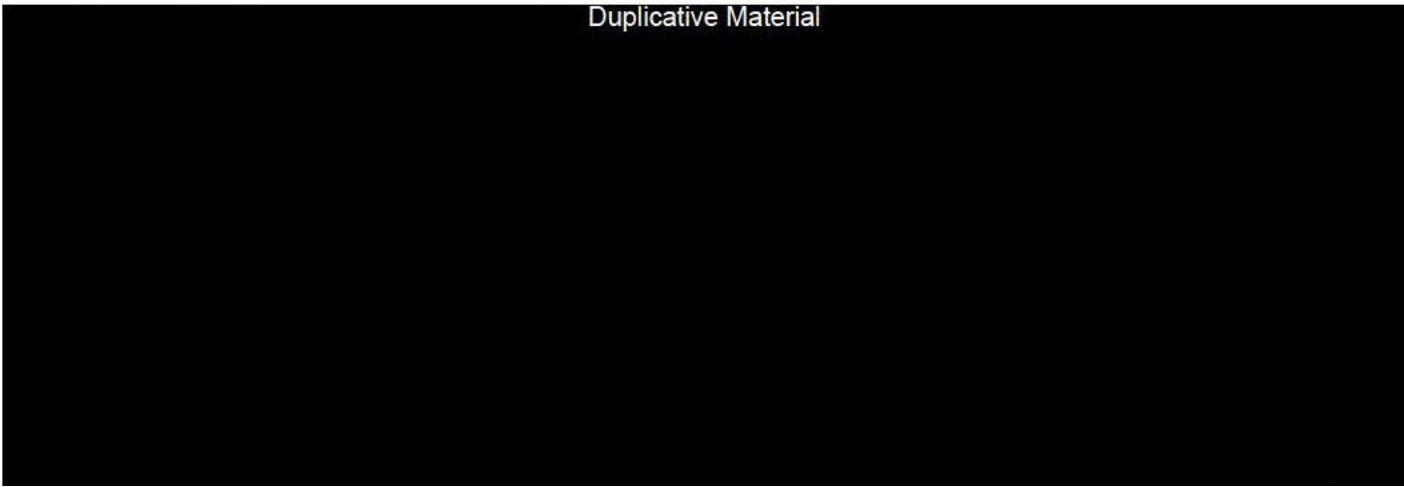
Hi Brian,

Thank you for your edits. David is on travel today so we will speak with him when he calls in and will be back in touch soon.

Best,
MaryPat

From: Rabbitt, Brian (OAG) <Brian.Rabbitt@usdoj.gov>
Sent: Wednesday, February 19, 2020 1:12 PM
To: Marlene Colucci <mcolucci@businesscouncil.com>
Cc: Laura Boring <Laura.Boring@carlyle.com>; MaryPat Decker <MaryPat.Decker@carlyle.com>; Adrienne Ball <aball@businesscouncil.com>
Subject: RE: Attorney General William Barr Questions / February 20

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3. Now that you are back at Justice, what are the principal changes in the Department over these last 25 years? Has technology become much more important at Justice?
4. Did you know President Trump before he was elected? How did you come to know or deal with him when he became President?
5. ~~Did you write him a memo about the power of the Executive Branch under the Constitution?~~ Prior to your nomination, you drafted a memo that was given to Department of Justice leadership about a number of aspects of the Mueller investigation. That memorandum outlined your views on executive authority. What were you driving at in your memo? Has your view about Presidential power been a long held one?
6. When the Mueller Report was finalized, you were criticized by some for not immediately releasing the whole Report and for summarizing its conclusions in ~~a most favorable~~ some viewed as more favorable way to President Trump. How do you respond to that criticism?
7. Do you view yourself – as probably Bobby Kennedy did – as the President’ lawyer, or as the head of the Justice Department, without any obligation to defend the President personally?
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~~initial 7-9 year recommendation from the career prosecutors was too high? Wasn't that recommendation exactly what the sentencing guidelines called for?~~Media reports suggest that supervisors in the D.C. U.S. Attorney's Office, including the U.S. Attorney, disagreed with the recommendation of the line prosecutors on the case, and you ultimately weighed in on the Department's sentencing recommendation. Commentators have questioned your involvement. Do you feel that it is important for line prosecutors to be supervised? Why? In your view, is it appropriate to have political officials in the Department supervising sensitive matters?

11. You've spoken a number of times about the role that the criminal justice system and the Department of Justice has come to play in American politics. What are your views on the criminalization of politics? How have you tried to address this during your tenure?

12. Media reports have suggested that you have taken an interest in a number of sensitive investigations at the Department, which some have said is unusual for an Attorney General. Do you feel that it is inappropriate for the Attorney General to be directly involved in sensitive matters? Why or why not?

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21. Advocates of encryption say that it provides much-needed protection against hackers and other bad actors in an increasingly digital world. They say that providing law enforcement with a "back door" into their systems will make them vulnerable to cybercriminals. How do you propose to balance the benefits provided by encryption against the need for what you term "lawful access"?

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22. The DOJ has made headlines in recent months for its review of leading technology companies. Given how pervasive social media and online platforms are in everyday life, the DOJ's work in this area will obviously have large implications for many Americans. What motivated you to undertake this review? What concerns do you have about these companies? Can you give us an update on the progress of the review and where you see it going?

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Location: The Kennedy Center - REACH
Thursday, February 20, 2020

White House Press Office

From: White House Press Office
Sent: Thursday, February 20, 2020 3:24 PM
To: jeffrey.rosen38@usdoj.gov
Subject: Travel pool report #3: NEWS - POTUS on Roger Stone - "very good chance of exoneration"

From: "Rogers, Katie" <katie.rogers@nytimes.com>
Date: February 20, 2020 at 12:08:27 PM PST
Subject: Travel pool report #3: NEWS - POTUS on Roger Stone - "very good chance of exoneration"

From the stage at the commencement ceremony, POTUS had this to say about Roger Stone's sentencing:

"I want to address today's sentencing of a man, Roger Stone. I'm following this very closely and I want to see it play out to its fullest because Roger has a very good chance of exoneration in my opinion."

Calls him a "character" and says he likes him. "He's a smart guy, he's a little different, but those are sometimes the most interesting. But he's a good person. His family is fantastic."

"Roger was never involved in the Trump campaign for president. Early on before I announced he may have done a little consulting work or something. He's a person who he knows a lot of people having to do with politics. It's my strong opinion that the forewoman of the jury ... is totally tainted."

On fully pardoning Jon Ponder, a former bank robber, three-time convicted felon and host of this event: "We are giving him absolute consideration and I have a feeling he's going to get that full pardon. I'm going to give him an early congratulations, alright?"

He recognized Sheldon and Miriam Adelson, also at this event. "What a family. Miriam is a great doctor. She doesn't have to be a doctor. You can trust me, her husband doesn't need the money. But she devotes her life to addiction."

Recognized Jared Kushner on criminal justice reform: "He does a lot. He works hard."

Event is ongoing.

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White House Press Office

From: White House Press Office
Sent: Thursday, February 20, 2020 6:15 PM
To: patrick.hovakimian4@usdoj.gov
Subject: Remarks by President Trump at a Commencement Address at Hope for Prisoners Graduation Ceremony | Las Vegas, NV

 The White

Office of the Press Secretary

FOR IMMEDIATE RELEASE

February 20, 2020

**REMARKS BY PRESIDENT TRUMP
AT A COMMENCEMENT ADDRESS
AT HOPE FOR PRISONERS GRADUATION CEREMONY**

**Las Vegas Metropolitan Police Department
Las Vegas, Nevada**

11:57 A.M. PST

MR. PONDER: Thank you, sir.

THE PRESIDENT: Good to see you. How long have you been doing this?

MR. PONDER: Eleven yearsh

THE PRESIDENT: That's fantastic.

MR. PONDER: Yes, sir. Thank you.

THE PRESIDENT: Jon has been doing this for 11 years, and he's done incredible. And so many people have such respect for him and -- I shouldn't tell you this. Should I tell it to you now

or should we wait? (Laughter.)

AUDIENCE MEMBER: Tell us!

AUDIENCE MEMBER: Tell us, sir.

THE PRESIDENT: So they're all saying, "He's done so well. He's saved so many lives. He's created happiness in so many familiesh" "Sir, would you consider Jon Ponder for a full pardon?" (Applause.)

And I love doing it. I love doing it. And we are -- we are giving him absolute consideration, and I have a feeling he's going to get that full pardon. (Applause.) I have a feeling. I can't tell you, but I have a feeling.

Great gentleman. That's -- first thing they said to me when I walked in. And -- but everybody knows who you are. I know who you are. (Laughter.) Eleven years of thish That's fantastic. What a tremendous story. Thank you very much. Congratulationsh Because I'm going to give him an early congratulationsh all right? (Applause.) That's big stuff. That's big stuff. So thank you very much, Jon.

And two years ago, I was honored to celebrate your story of faith and transformation as you stood with me in the Rose Garden of the White House. It was a great day, a beautiful day. Now I'm thrilled to come to Las Vegas Police Department. And thank you very much for being -- what a group that ish That's some job you guys do. (Applause.) Some job you do. A lot of friends too. A lot of friendsh To take part in your organizationhs Hope for Prisoners graduation ceremony.

We are here to reaffirm that America is a nation that believes in redemption. And that's what it's about redemption. We believe in second chances. And we want to bring returning citizens, great people -- great people -- in many cases, great people, and not in all cases.

I'm not going to be too politically correct, fellas --

(laughter) -- right? Not in all cases, but in many casesh We want to rebuild their lives; they want to rebuild their lives. They want to help us and rebuild our country. And, please, everybody, please sit down. A little bit late with that one, wasn't it? (Laughter.) Thank you. That feels better, doesn't it? Huh?

But to the 29 graduates: You're returning to your families. You have paid your debt to society and shown a commitment to change. You've overcome many challenges: broken free of addiction, learned new skills, and replaced old habits with fresh resolveh

And Jon told us just outside, a little while ago, that it's a -- it's an incredible class -- incredible class of talent. That word, "talent," is very important.

And now you have a chance to begin a new chapter that you are proud to call your own. And I have little doubt you're going to be very, very successful. Your future does not have to be defined by the mistakes of the past.

Today we declare that you are made by God for a great and noble purpose, and you understand that. (Applause.) I mean, it's a great and noble purpose. And you're valued members of our American family, and we are determined to help you succeed and we're going to work with youh And you're going to work with Jon and everybody else in this really incredible place that you've all put together, Jonh

And you're going to be so successful. You're going to say, "I'm going to be more successful than Trump." (Laughter.) Going to be more -- and I'll be happy if you do it, I'll tell you what. (Applause.) I'll be very happy about it.

But as long as you work hard and follow the law and do your part to contribute to your communities, your best days are just beginning. The best part of your life is beginning. I really believe that. And your greatest years are just ahead.

And to all of the family members and loved ones -- who have been through so much -- of the graduates who joined us today, we know your journey has not been an easy one, but your love and support make all of the difference. And we are tremendously grateful for the families, the loved ones. And I know they're even more grateful, because without them, you wouldn't be here. You wouldn't be here. (Applause.) So I want to thank you.

And joining us for this ceremony are two leaders who have devoted so much to advancing medical cures to help people overcome the stranglehold of addiction: Sheldon and Miriam Adelson. And they've been great friends of mine for a long time. (Applause.) Stand up, Sheldon. What a family. What a family.

And Miriam is a doctor -- a great doctor. She doesn't have to be a doctor. You can trust me -- her husband doesn't need the money. (Laughter.) But she devotes her life -- it's the most important thing to her -- to addiction. And every time she learned something new -- and there's still plenty to learn -- but she'll call me and tell me what they're learning about addiction.

And the job you do, Miriam, and what you've done, Sheldon, just overall is incredible. (Applause.) And really great. Two great people. Just great people.

And they like a place called Israel very much. Would you say that's correct? (Applause.) Maybe I have to use the word "love" a place called Israel, right? In your case.

Thank you as well to Las Vegas Mayor Carolyn Goodman for being here. Carolyn, thank you very much. Great -- great job. (Applause.) And also, the tireless advocate -- because Carolyn has been very much involved with criminal justice reform along with Jared Kushner, who has been very, very much involved.

I don't know -- (applause) -- I think -- I think, Jared, I'm starting -- where is Jared? Thank you, Jared. We're going to -- he never wants any credit. He does a lot. He works hard. But that's working out very well, Carolyn, isn't it? It's working out well for everybody.

And tremendous support. And we had liberal support, we had conservative support. And they came to me and they needed some help, and we got help from some very unexpected places. Votes. We needed votes. And we got some great people -- Republicans in all cases, in this case. But we got some great people to vote for criminal justice reform.

So -- in fact, very conservative Republicans. So that was a good sign. Very bipartisan. And it was a terrific thing, and we really -- we did something that they've been trying to do for a long time, and we got it done. We get a lot of things done. We get a lot of things done. (Applause)

Now, you see a lot of press back there. So before we go any further, I want to address today's sentencing of a man, Roger Stone. Roger Stone. He's become a big part of the news over the last little while. And I'm following this very closely, and I want to see it play out to its fullest because Roger has a very good chance of exoneration, in my opinion. (Applause.)

I've known -- and you people understand it probably better than anybody in the room. I've known Roger Stone and his wife, who's really a terrific woman, for a long time. And Roger is definitely a character. Everybody sort of knows Roger. Everybody knows him. And most people like him. Some people probably don't, but I do and I always have. He's a smart guy. He's a little different. But those are sometimes the most interesting. But he's a good person. His family is fantastic. He's got a fantastic family. And there's always a reason for that, isn't there?

Roger was never involved in the Trump campaign for President. He wasn't involved. I think early on, long before I announced, he may have done a little consulting work or something, but he was not involved when I ran for President. And he's a person who, again, he knows a lot of people having to do with politics. His whole life is politics. That's what he is.

And it's my strong opinion that the forewoman of the jury --

the woman who was in charge of the jury -- is totally tainted. When you take a look, how can you have a person like this? She was a anti-Trump activist. Can you imagine this? (Laughter.) Now, you wouldn't know about a bad jury. Anybody here know about bad? No? (Laughter.) These people know more about bad juries than everybody here, including the sheriff and the mayor and everybody. (Laughter.)

They know about bad juries. We're not going to say it too much, so let's not say it in front of more cameras than this (Laughter.) But you're my experts, okay?

No, but this is a woman who was an anti-Trump person, totally. Now, I don't know if this is a fact, but she had a horrible social media account. The things she said on the account were unbelievable. She didn't reveal that when she was chosen.

And she's, I guess, from what I hear, a very strong woman, a very dominant person, so she can get people to do whatever she wants. And she got on, and then she became the foreperson, forewoman, on the jury. And I assume they asked her a question: "Do you have any bias? Do you have any..." She didn't say that. So is that a defrauding of the court? You tell me.

But does this undermine our fair system of justice? How can you have a person like this? Did she delete her social account? And when Roger was determined by the same jury to be guilty before the judge issued a sentence -- and he was determined to be guilty -- and she started going a little wild. She's very happy. And she started saying things that people said, "That's strange. That's strange." And then they started looking at it, and how can you have a jury pool tainted so badly? It's not fair. It's not fair.

And, you know, it's not happening to a lot of other people, because you could -- look, I won't name names, but everybody knows who I'm talking about. What's happening over there? Nobody, nobody.

There are people that are even in Roger Stone's basic business of politics that were going to be in big trouble. Well-

business of politics that were going to be in big trouble. Well known people. The biggest people. Big trouble. They were forced to leave their firm.

One man was forced to leave his firm and he was going to -- bad things were going to happen to him the following day. Nothing happened. Nothing happened. He was the biggest; nothing happened. But it happened to Roger Stone, and it happened to General Flynn. And it happened to -- I won't name namesh (Laughter.) It happened to a lot of people, and destroyed a lot of people's lives.

And I'm here to make a fair system. Again, Roger is not somebody who worked on my campaign. I know Roger, but a lot of people know Roger. Everybody sort of knows Roger. And what happened to him is unbelievableh They say he lied. But other people lied too. Just to mention, Comey lied. (Laughter.) McCabe lied. Lisa Page lied. Her lover, Strzok -- Peter Strzok -- lied. You don't know who these people are? Just trust me, they all lied. (Laughter and applauseh)

You had people that forged documentsh You had people that wrote fake dossiers and brought them to the FBI, and used people in the Justice Department to get them to the FBIh And these people know -- in the front row, you know better than anybody in this room what the hell I'm talking about, probably. (Laughter.)

So I'm only responding to you. I'm not even talking to the folks all the way (inaudible)h (Laughter.) But they get it better than anybody too. A lot of bad things are happening, and we're cleaning it out. We're cleaning the swamp. We're draining the swamph I just never knew how deep the swamp wash (Applause.)

So if this woman was tainted, I hope the judge will find that she was tainted. And if she isn't tainted, that will be fine too. But I'm not going to do anything in terms of the great powers bestowed upon a President of the United Statesh I want the process to play out. I think that's the best thing to do, because I'd love to see Roger exonerated, and I'd love to see it happen because I personally think he was treated very unfairly.

They talk about witness tamperingh But the man that he was tampering didn't seem to have much of a problem with it.

(Inaudible) think they know each other for yearsh And it's not like the tampering that I see on television when you watch a movieh That's called tampering -- with guns to people's heads and lots of other things.

So we're going to see what it ish Maybe there was tampering and maybe there wasn't. But I can tell you that there was tremendous lying. Really, lying and leaking classified documentsh That, you don't know about. But they leaked classified documents.

You know, there was a young sailor who took pictures of an old submarine and sent them to his mother and a friend. And they destroyed his life. I let him out. They were considered classified. Now, Russia and China, I guarantee you, have the pictures of this submarine, for a long timeh The submarine was like 30 years old. They had them in the first year; they didn't have to wait for the 30th year. But this is a famous story. And they had these pictures, and they put him in jail. He sent them to his mother and to his friend. His friend was not interested in what you're thinking. And there were many other cases where documents were leaked, even accidentally. It's so -- classified documents are so important that even if they are leaked accidentally --

Now, Hillary Clinton leaked more classified documents than any human being, I believe -- (laughter) -- in the history of the United States of America. Right? And she deleted 33,000 emails. And she said, "Oh..." And, by the way, if you did it: five years, maybe moreh Okay? But you never have access to classified. Very few people have access. She deleted 33,000 emailsh I kept waiting. Because, you know, they can talk Benghazi; they can talk 100 different things.

What people understand is when you get rid of this kind of evidence -- so the United States Congress said they subpoenaed her. They wanted to see her emailsh After getting the subpoena,

she deleted 33,000 emails. And they said -- do you remember this? -- "yes, the emails were about her yoga classes, her exercising, and her daughter's wedding." Thirty-three thousand about her daughter's wedding? (Laughter.) That must have been the greatest wedding of all time. (Laughterh) And nothing happened to her. And yet, they'll put a young sailor in an old submarine, with a picture -- a couple of pictures -- they'll put him into jail.

And I pardoned him because it was unfair that she was able to do it at the highest level, and his level wasn't -- what he did was, it was confidential. "Confidential" is a much lower class than "classified."

So I tell you this because it's interesting. This is part of our nation. This is what's going on nowh

So I'm going to let this process play out. And we want to have a great and fair court system. And I hope you had a fair and -- you know, fair and wonderful court system. But perhaps you didn't. Perhaps you didn't. And if you didn't, we want to straighten it out. But we have to straighten it out also at the top level.

So we had a lot of dirty copsh FBI is phenomenal. I love the people in the FBIh But the people at the top were dirty copsh And if you would have read the report written about Comey -- 78 pages of kill, with a reference of "Go get him." They really said it "Go get him." And then you read about McCabe and you see what they said. It's so bad. And we're just waiting. I'm not doing any -- I'm just sitting here, standing here, talking to you. We're waiting. (Laughter.)

So I just want to let the fake-news media know that -- (laughter) -- I just want to let them know, because there's few people more dishonest than these people, I will tell you thath And you have some very good ones. A hell of a lot more dishonest than most of you in the audience weresh (Laughter.)

But I'm going to let the media know that I'm going to watch the process; I'm going to watch it very closely. And at some

point, I'll make a determination.

But Roger Stone -- and everybody -- has to be treated fairly. And this has not been a fair process. Okay? (Applause) Thank you.

So when I ran for President, I pledged to fight for those who have been forgotten, neglected, overlooked, and ignored by politicians in our nation's capital. And you understand that very well.

For decades, no one was more forgotten than citizens coming out of prison who were ready to go into a brand-new, beautiful start but couldn't find a job. They couldn't find people who believed in them.

And one of the great things that happened is I, and my administration, and a lot of very talented people that work with me, we created the strongest economy in the history of our country. (Applause.) We have the best unemployment numbers. We have the best unemployment numbers for African American. Best in history. Asian American -- best in history. (Applause.) Hispanic American -- best in history. (Applause.) Our country is booming. We've never done better. It's the best economy we've ever had.

So when people come out -- as an example, yourselves. You're going to get great jobs. And I'll tell you the end result -- and we do studies on this: People with businesses are going to hire you. They want you more than you want them. This is the first time this has happened. Okay? (Applause) This is the first time. They want you to do it. And they wouldn't have given you that second chance. We call it "second chance." But they wouldn't have given you that second, and in some cases, a third chance. That's okay. But they wouldn't have given you that second chance. Now they're doing it because they need people, because the economy is so good.

And I'll tell you the end result: Employers are calling. The numbers that we're getting, the respect that you're getting from

people that are doing the hiring -- they can't even believe it. I had one gentleman, I talked to him -- he had seven people came out of prison. He's got seven people working for him. He said, "They're among my best." (Applause.) He said, "They are among my best people." He said, "I cannot believe it."

And you know what? (Inaudible) always work out. I'm not going to say everybody is perfect because it's not. Nobody is -- you take a group, there's always going to be somebody that doesn't work out. But he said, "I can't believe it. They are..." He's got seven now. They've been with him for quite a while. He said, "They are among the best people I have ever employed." He is so happy. It's going to happen with you. It's going to happen with them. What do you think? I think it's going to happen with this group. (Applause.)

So once I came into office, leaders from all different backgrounds asked me to make changes to our criminal justice system. And the more I learned about the issue -- a big issue -- the more I knew that criminal justice reform was really not about politics. Because you have people that are for and against it on all different levels -- Republican, Democrat, conservative, independent, liberal. Some love it, some don't love it, but they're starting to love it. We're having tremendous success with it. And it's about doing the right thing. Because Alice Johnson -- you know, I've really gotten to know her well. And she's like an incredible person. And because of Alice, we're taking in -- we've just let out three other people that she knew.

And I say to people, "And you may have references and recommendations when you were -- wherever you may have been, frankly. You know some people that were really good people who..." Alice was in for 22 years. She had another 18 years to serve, and -- for a crime, but not that kind of a crime. And I learned about Alice Johnson. And when I learned, it really -- you know, it was really something special. She's an incredible woman. She came out of prison. You've seen the whole thing. We actually did a commercial on it. I did the commercial for people to see what this is all about.

she came out -- you couldn't hire an actor in Hollywood to have the emotion and the love and the tears and everything. She came out and she saw her family, who had totally grown up without her. And some big, strong young men. Some wonderful women. Just all family. And she was grabbing them and they were all hugging and kissing outside of this massive prison wall. And they were just screaming with joy. It was an incredible thing to see. You couldn't -- you couldn't do it. It had to be natural. It had to come from the heart. It had to come from the heart. So it was really --

So I say to Alice, and I say to other people, and I'll say to you, and I'll say to you -- you're going to have some recommendations. Do you think I'm making a mistake with him? What do you think?

AUDIENCE: No!

THE PRESIDENT: Okay. But you're going to have some recommendations. I want your recommendations. Because you have -- we have thousands of people in prison that have stories like Alice Johnson. Thousands and thousands of people. And I love doing it. I love doing it. And, you know, you can be poor. You can be middle income. You can be rich. It's -- injustice is injustice. But you have thousands of people that shouldn't be there. And I love finding those people. So, as you find them, as you really think -- but you can't let me down. They've got to be right. (Laughter.) Because there are some people you don't want to do this with. You do know that.

I said to Alice, "So, Alice, let me ask you. You have a lot of people like yourself, right?" "Yes." "But you have bad people too, don't you?" "Yes, we do. Some very bad people." I said, "Good because I wouldn't want somebody to say, 'No everybody is good,' because that's not the case." But she's given us great recommendations, and she's a great woman.

To redress unfairness in the justice system, just over one year ago, I led the effort to pass the criminal justice reform. And others had tried and failed. And they didn't try too hard because they knew it couldn't be done. But we got it done. This

because they knew it couldn't be done, but we got it done. This law rolls back provisions of the really terrible 1994 criminal -- Clinton crime law that disproportionately impacted the African American community. I mean, they liked Clinton, but they passed a law that was a disaster. You know that. But we did something about it. They were unable to do it all the way back. We did something about it. (Applause.)

And my recent budget provides over \$400 million to expand vocational training, drug treatment, and critical reentry programs just like this one. (Applause.) Okay? You know that. He knows it.

By enacting criminal justice reform, we're sending a powerful message to prisoners who have reformed their lives: When you return to society, we are not going to leave you behind. We're not leaving you behind. But now we don't have the excuse of a bad economy. They used to have the excuse, "Well, we can't do it. The economy is no good." The unemployment rates were very high. We're down to 3.5 percent. We're probably going lower. And wages are going up -- first time in 21 years. They're really going up, and going up substantially -- it's a beautiful thing. If you're, like, in my world, it's a beautiful thing to watch. It's like a picture.

Everyone in this room is here to make sure that you have the support that you need to succeed, thrive, and to never, ever look back. (Applause.) You're not going to look back. We're not going to look back. (Applause.)

And we're joined today by many great pastors and faith leaders -- some of whom I know pretty well -- who trust the power of prayer and the mercy of God to transform their lives. And I want to thank you all for being here. Thank you. Great, great faith leaders. Thank you. (Applause.) Please stand up. Please stand up. Great. Thank you. Thank you, Father. Great job. I've actually been to a couple of their churches. Thank you very much.

Also with us are employers of many different industries who are here to recruit you. Don't ask for too much. Just take it

nice and easy. (Laughter.) Don't forget, they want to make a good deal, but you do tooh (Laughterh) But they want to recruit you for great jobs and they're here. Who are the people that are looking? Who are the people -- the employers? Pleaseh Yeah, stand up, please. That's greath That's greath (Applause.) That's great. Great. You're going to be happy. You're going to be very happy.

Including the Las Vegas Chamber of Commerce, who really has done a fantastic job over the yearsh I've known how hard they work and what a great job they do: Station Casinos, Martin and Harris Construction, Civil Werx General Contractor, Silver State Transportation, Keolis Transit, and Workforce Connectionsh

And I want to thank you all. And we have a lot of others outside that are coming in, too. And you're going to have a lot of -- you're going to have a lot of fun. It's nice to be loved, right? It's nice to be wanted. You're wanted. You're wanted. (Applause.) Finally -- (applause) -- yeah, you're wanted. Right, Jon?

Finally, we're proudly -- really proud to be joined by more than 80 men and women -- these people are so incredible -- of law enforcementh (Applause.) The job they do -- Sheriff -- (applause) -- the job. Please stand up. (Applause.)

You don't know how much people respect you. You don't hear it. You don't hear it. People respect you like you wouldn't believeh So we just want to thank you all. The job you do is incredible. The law enforcementh We honor your selfless service and braveryh

By the way, Fire Department, also. I just left an area of the country where two firemen were just killed, and -- terrible -- up in a certain portion of a beautiful place in California, where a building collapsed. Two people killed. Two firemen killed. And we honor them. And we -- this took place yesterday. But they're fantastic.

But I want to thank law enforcement because the job you do is

incredible. And the respect that people have for you -- you'll never -- you'll never know how strong it is. It's strong, and I think it's stronger now than ever before.

And now you have an administration that loves you, backs you. We give you the equipment that you need. We give billions of dollars of equipment. We had surplus equipment -- military equipment, incredible stuff -- sitting in hundreds of warehouses all over the United States. And, for some reason, other people didn't want to give it out. But I gave it out, and I assume you got some of it. Right? You got some of it? (Applause.) I know the man. He probably got most of it, right? That's good. It keeps you safe.

As you know, Hope for Prisoners has pioneered a mentorship program with law enforcement, which has given strength and support to former inmates like Lois Hockersmith. And she joins us today. Lois. (Applause) Where is Lois?

For many years, Lois struggled with addiction. In May of 2012, she found herself pregnant and in jail. After she served her time, Lois participated in Hope for Prisoners program. She graduated in 2013. And since then, Lois has stayed totally sober. She's earned back custody of her precious, beautiful son. And she is one of the best case managers here at Hope for Prisoners. Is that right? (Applause.) That's good. That's good. Thank you. Wow. Come on up, here. Lois. Come on up here.

Through it all, Lois has been encouraged by her mentor, who is the same officer who arrested her nearly eight years ago -- Lieutenant Steve Riback, who also joins us today. Hey, Steve, come on up. Is Steve here? Steve is here? Steve, come up. (Applause)

LIEUTENANT RIBACK: (Inaudible), sir.

THE PRESIDENT: Well, we're with you 100 percent. It's great.

Please, would you like to say something?

MS. HOCKERSMITH: Yes. So, first of all, I want to thank this officer. He saved our lives that night that he arrested me and my son. He arrested me. (Laughter.) I was pregnant with him and I gave birth to him that night. And not all our heroes wear capes; some wear badges. Had he not been doing his job that night, I wouldn't be here.

Jon Ponder, listen, we've been through a lot of things together. 2012 -- that's when I went through the program, and my life changed that day. I am standing in front of the President. I'm a little bit nervous. (Laughter and applause.)

I just want you to know that I'm standing amongst heroes, but you guys -- if it wasn't for you guys to come back in and for being able to pour back into you -- this is how I keep it: by giving it back to you guys. Thank you. (Applause.) And thank you, Mr. President

THE PRESIDENT: Thank you. Take care of mom. Right? So beautiful.

Would you like to say thing? Please. (Laughter.) He feels very comfortable, you can see.

LIEUTENANT RIBACK: I had a well-prepared speech for this. (Laughter.) The credit, 100 percent, goes to Loish And, to be completely candid, I was doing nothing no different than I had done for years and years that nighth I definitely believe it was divine that we came across each other. But the credit goes to her, the credit goes to Jon, the credit goes to you guys as -- as hopefuls.

And I just wish you a tremendous amount of success in the rest of your life. It's only forward at this point. And you have an incredible team, an incredible community, and I'm so honored to be a part of it. But, again, the credit goes to these people right here. Thank you. (Applause.)

THE PRESIDENT: That was a good job. That was a good job. (Applause) Wow. He did okay, fellas, right? (Laughter.) He

did okay. He did a great job. Thank you both, Lois and Steve.

You remind us, really, that -- all of us -- that anything is possible. And Lois is among the roughly 100 Hope for Prisoners alumni here today, all of whom are doing incredibly well. Please stand. Please stand, all of the alumni. (Applause.) Wow. That's great. That's great. That's great. (Applause.) Great. Congratulations. Thank you very much.

But they're really a testament to the bright future that awaits you all. It's a great -- it's a great time in our country in so many ways. Our military is strong, our country is just strong. We're stronger in, I would say, just about every way than we ever have been before -- militarily.

You take a look at what we're doing with the stock market. We've had 144 out of three years -- I've been here just a little more than three years. And in a little more than three years, Jon, we've had 144 stock market records.

Now, that's good for everybody. It's good for your 401(k)s and it's good for jobs. And it's good for -- those are the ones that I think about first: jobs, 401(k)s. And people are making a lot of money and people are getting tremendous -- you'll be investing some of your money in this now. You'll be doing fantastically well and you're going to have 401(k)s or something -- the equivalent. And you're going to do fantastically well.

And, you know, as I say sometimes in speeches. The best is yet to come. We have tremendous potential. We have just made some incredible trade deals that will soon start kicking in. It's going to make it a different country, economically. As good as it does, it's going to be much better.

We had horrible, horrible deals, or no deals at all, and now we have phenomenal deals. We made a massive deal with China. Then we did the USMCA; that's Mexico, Canada. We did a 40-billion-dollar-a-year deal with Japan and we did a deal with South Korea, and we have other deals too. And I'm going to India next week and we're talking about -- you know, they have 1.5 billion

people, and Prime Minister Modi is number two on Facebook. Number two. Think of that.

You know who number one is? Trump. Do you believe that? (Applause.) Trump. Number one. I just found that out. The head of Facebook, Mr. Zuckerberg, came in three weeks ago. He said, "Congratulations." I said, "On what?" He said, "You're number one on Facebook." I said, "That's cool." (Laughter.) Number one on Twitter too. But that's because -- (laughter and applause.) It's true.

And if I wasn't, I could never say it because it would be breaking news that -- (laughter) -- that Trump told a fib. No, number one. And I congratulated Prime Minister Modi. I said, "But, you know, you have 1.5 billion people. I have 350 million. You have an advantage."

But we're going to India, and we may make a tremendous deal there, or maybe we'll slow it down. We'll do it after the election. I think that could happen too. So we'll see what happens. But we're only making deals if they're good deals, because we're putting America first. Whether people like it or not, we're putting America first. (Applause.)

So to help you find housing, jobs, and support, I established, as you know very well, the Council on Crime Prevention and Reentry. They've done a fantastic job. And here with us today are new executive director, Tony Lowden. Tony, would you just come up and say a few words, please? Tony Lowden. Thank you, Tony. (Applause.)

He looks good. (Laughter.) Hi, Tony.

MR. LOWDEN: Thank you, sir. To God be the glory.

Listen, this is what reentry looks like when our law enforcement, our returning citizens, our faith community, business in our community, along with their children, can come together in a holistic approach and bring us together. Under this President, has showed America what reentry looks like. (Applause.)

They say, "What happens in Vegas stays in Vegas"
(Laughter) But I want to tell you that, today, the entire world
have been put on notice that here, Jon, under this President and
our administration, this will no longer be a secret. This will be
the norm for America. God bless you. (Applause)

THE PRESIDENT: Thank you, Tony. Wow. (Applause)
Beautiful. Thank you, Tony. Wow. That's great. Respected guy.

For too long, citizens with a record were not even considered
for jobs -- you know that -- even if they were qualified,
rehabilitated totally, and ready to go to work. They wanted to go
to work. But all of that is changing.

And we began a nationwide campaign to encourage businesses to
expand Second Chance hiring. We call it "Second Chance hiring."
When we say "hire American," we mean all Americans. All
Americans. (Applause.) And our entire nation wins when citizens
with a record have a chance to succeed.

It's such a tremendous -- what's happened over the last three
years is incredible. People came out, they didn't have a chance,
and now they're not only having a chance -- you're going to see it
a little while when these guys try and make a deal. "I want a
little bit more. Get me a little bit more." (Laughter.)

Together, we're rebuilding the most prosperous economy and
the most inclusive society, Jon, ever to exist. We are becoming
a very inclusive society, much more so than in the past. And a
lot of people haven't figured that out yet, but I think they
will. I think people are going to figure it out pretty soon.

We want every citizen to join America's unparalleled success
and every community to take part in America's extraordinary rise.
Since my election, we have created 7 million new jobs.
(Applause.) The unemployment rate has reached the lowest rate in
over 51 years. Think of that: 51 years. Half a century.
(Applause.)

And, by the way, the 7 million jobs -- they thought it might

be 2 million, if we're lucky. You go back three years, they were saying "2 million." We did 7 million, and it's pretty amazing.

African American poverty has declined to the lowest rate ever recorded. (Applause) But I think one of the things we're most proud of in this incredible economy -- we'll call it "Trump economy." Call it -- we'll call it the "Ponder economy." We'll call it something. (Laughter.)

But whatever we call it, this economy has been great. And the thing that might be the best of all is what we've done with criminal justice reform. I really think so. (Applause.)

Our jobs market is so strong that businesses are recruiting the former prisoners off the sidelines in, by the way, record numbers. Record numbers. Never happened anywhere even close to these numbers.

We know that having a job gives you the best chance to work hard, to earn the paycheck, care for your families, chase your dreams, and succeed.

Through our Pledge to America's Workers, spearheaded by a very famous young woman -- did you ever hear of Ivanka? (Laughter and applause.) She did. She's -- she said, "Daddy, I want to help with jobs." I said, "Well, I'll put you here, there." "No, no. I want to help with jobs. I want to get people jobs. They have to be trained. They have to be..."

So she had a goal of 500,000 jobs. That's a lot -- half a million jobs. She just broke, Jared, I guess -- is Jared around? She just broke -- she just broke -- Jared Kushner -- she just broke -- the father of criminal justice reform. He really is. I mean, he works so hard. And Ivanka just was broke 15 million jobs. Fifteen. (Applause.) Mayor, that's good, right? (Applause)

And this is where they -- they train the people in the companies. The government can't do this. Walmart took a million people. Think of it. These big companies take -- and they train

them. It's very complicated stuff, with computerization and all of the things you have to learn. That's not for government.

Fifteen million people taken by many of the biggest companies, but also midsized companies, even some smaller. But she broke 15 million people about two weeks ago. And her goal was 500,000 people over a fairly long period of time. Fifteen million. But if you know Ivanka, you're not at all surprised. Believe me. I wasn't surprised. I was sort of saying, "So what else is new?" (Applause.)

To every returning citizen here today, I know that there are some in our society who want to tell you what you can't do. They're going to tell you what you can't do. It's one of the reasons I wanted to be here. I wanted to say what I had to say to Jon, too, because I sort of had that on my mind for a long time -- actually, the first time I met him.

But they want to tell you what you can't do. They want to tell you why you can't succeed; no way you can succeed. You don't want to listen to them because you're proving different. They want to say why you can't make it in this country, why you can't make it in any country. They think you're not going to make it, period.

But do not believe those voices for one second, because I'm here today because I believe in what you can do. You're going to be incredible. You're going to be incredible. You're going to see it, and it's going to go quickly.

Each of you is a citizen of the greatest country on Earth. There is more opportunity, more equality, and more potential in America today than in any society in the history of the world. It's true. This is the country where anyone can make a comeback. We made a comeback with our country. We call it the "great American comeback." This is the great American comeback, and you're doing the same thing. This is a nation where anyone can rise. And this is the time when anyone can reach for the American Dream. That beautiful American Dream. It's what you're doing. (Applause.)

And whenever you have any doubt, whenever the road gets tough -- and it will; you'll have those days. I've had those days. (Laughter.) I mean, I didn't do anything wrong, and they impeached me a few weeks ago, right? They impeached and I said, "What happened? What did I do?" Ay-ya-yay. (Laughter.) You think that was fun? Mayor, you think that's great to be impeached? The good news: My numbers went through the roof. I mean, you explain -- explain this to me. (Laughter.) Explain this to me. (Applause)

But you'll have those days, right? You're going to have those days. But you're Americans, and you're great Americans. And Americans meet challenges. You defy expectations. You never give up. You never lose faith in the redeeming power of Almighty God.

And from this day forward -- I'm here. I'm the President. I don't have to do this. I could be someplace else. But I wanted to be here, and we -- I had plenty of choices. One thing as President -- the Mayor can tell you -- we have plenty of choices. Right? We have a lot of choices. I wanted to be here.

But I ask each of you to seize your unlimited future. If you do, you will make the most of your incredible newfound freedom. You're pioneers in a way, because you're at a point in the country when it's just all come together. You will unlock your unique talents and skill and aspirations. You'll join a great project of national renewal.

And together, we will make our country stronger than ever before. Thank you very much for being here. God bless you, and God bless America.

Thank you. (Applause) Thank you.

END

12:45 P.M. PST

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White House Press Office

From: White House Press Office
Sent: Thursday, February 20, 2020 6:15 PM
To: jeffrey.rosen38@usdoj.gov
Subject: Remarks by President Trump at a Commencement Address at Hope for Prisoners Graduation Ceremony | Las Vegas, NV



Office of the Press Secretary

FOR IMMEDIATE RELEASE

February 20, 2020

REMARKS BY PRESIDENT TRUMP
AT A COMMENCEMENT ADDRESS
AT HOPE FOR PRISONERS GRADUATION CEREMONY

Las Vegas Metropolitan Police Department
Las Vegas, Nevada

11:57 A.M. PST

MR. PONDER: Thank you, sir.

THE PRESIDENT: Good to see you. How long have you been doing this?

MR. PONDER: Eleven years.

THE PRESIDENT: That's fantastic.

MR. PONDER: Yes, sir. Thank you.

THE PRESIDENT: Jon has been doing this for 11 years, and he's done incredible. And so many people have such respect for him and -- I shouldn't tell you this. Should I tell it to you now or should we wait? (Laughter.)

AUDIENCE MEMBER: Tell us!

AUDIENCE MEMBER: Tell us, sir.

THE PRESIDENT: So they're all saying, "He's done so well. He's saved so many lives. He's created happiness in so many families." "Sir, would you consider Jon Ponder for a full pardon?" (Applause.)

And I love doing it. I love doing it. And we are -- we are giving him absolute consideration, and I have a feeling he's going to get that full pardon. (Applause.) I have a feeling. I can't tell you, but I have a feeling.

Great gentleman. That's -- first thing they said to me when I walked in. And -- but everybody knows who you are. I know who you are. (Laughter.) Eleven years of this. That's fantastic. What a tremendous story. Thank you very much. Congratulations.

Because I'm going to give him an early congratulations, all right? (Applause.) That's big stuff. That's big stuff. So thank you very much, Jon.

And two years ago, I was honored to celebrate your story of faith and transformation as you stood with me in the Rose Garden of the White House. It was a great day, a beautiful day. Now I'm thrilled to come to Las Vegas Police Department. And thank you very much for being -- what a group that is. That's some job you guys do. (Applause.) Some job you do. A lot of friends too. A lot of friends. To take part in your organization's Hope for Prisoners graduation ceremony.

We are here to reaffirm that America is a nation that believes in redemption. And that's what it's about: redemption. We believe in second chances. And we want to bring returning citizens, great people -- great people -- in many cases, great people, and not in all cases.

I'm not going to be too politically correct, fellas --

(laughter) -- right? Not in all cases, but in many cases. We want to rebuild their lives; they want to rebuild their lives. They want to help us and rebuild our country. And, please, everybody, please sit down. A little bit late with that one, wasn't it? (Laughter.) Thank you. That feels better, doesn't it? Huh?

But to the 29 graduates: You're returning to your families. You have paid your debt to society and shown a commitment to change. You've overcome many challenges: broken free of addiction, learned new skills, and replaced old habits with fresh resolve.

And Jon told us just outside, a little while ago, that it's a -- it's an incredible class -- incredible class of talent. That word, "talent," is very important.

And now you have a chance to begin a new chapter that you are proud to call your own. And I have little doubt you're going to be very, very successful. Your future does not have to be defined by the mistakes of the past.

Today we declare that you are made by God for a great and noble purpose, and you understand that. (Applause.) I mean, it's a great and noble purpose. And you're valued members of our American family, and we are determined to help you succeed and we're going to work with you. And you're going to work with Jon and everybody else in this really incredible place that you've all put together, Jon.

And you're going to be so successful. You're going to say, "I'm going to be more successful than Trump." (Laughter.) Going to be more -- and I'll be happy if you do it, I'll tell you what. (Applause.) I'll be very happy about it.

But as long as you work hard and follow the law and do your part to contribute to your communities, your best days are just beginning. The best part of your life is beginning. I really believe that. And your greatest years are just ahead.

And to all of the family members and loved ones -- who have been through so much -- of the graduates who joined us today, we know your journey has not been an easy one, but your love and

support make all of the difference. And we are tremendously grateful for the families, the loved ones. And I know they're even more grateful, because without them, you wouldn't be here. You wouldn't be here. (Applause.) So I want to thank you.

And joining us for this ceremony are two leaders who have devoted so much to advancing medical cures to help people overcome the stranglehold of addiction: Sheldon and Miriam Adelson. And they've been great friends of mine for a long time. (Applause.) Stand up, Sheldon. What a family. What a family.

And Miriam is a doctor -- a great doctor. She doesn't have to be a doctor. You can trust me -- her husband doesn't need the money. (Laughter.) But she devotes her life -- it's the most important thing to her -- to addiction. And every time she learned something new -- and there's still plenty to learn -- but she'll call me and tell me what they're learning about addiction.

And the job you do, Miriam, and what you've done, Sheldon, just overall is incredible. (Applause.) And really great. Two great people. Just great people.

And they like a place called Israel very much. Would you say that's correct? (Applause.) Maybe I have to use the word "love" a place called Israel, right? In your case.

Thank you as well to Las Vegas Mayor Carolyn Goodman for being here. Carolyn, thank you very much. Great -- great job. (Applause.) And also, the tireless advocate -- because Carolyn has been very much involved with criminal justice reform along with Jared Kushner, who has been very, very much involved.

I don't know -- (applause) -- I think -- I think, Jared, I'm starting -- where is Jared? Thank you, Jared. We're going to -- he never wants any credit. He does a lot. He works hard. But that's working out very well, Carolyn, isn't it? It's working out well for everybody.

And tremendous support. And we had liberal support, we had conservative support. And they came to me and they needed some help, and we got help from some very unexpected places. Votes. We needed votes. And we got some great people -- Republicans in all cases, in this case. But we got some great people to vote for

criminal justice reform.

So -- in fact, very conservative Republicans. So that was a good sign. Very bipartisan. And it was a terrific thing, and we really -- we did something that they've been trying to do for a long time, and we got it done. We get a lot of things done. We get a lot of things done. (Applause.)

Now, you see a lot of press back there. So before we go any further, I want to address today's sentencing of a man, Roger Stone. Roger Stone. He's become a big part of the news over the last little while. And I'm following this very closely, and I want to see it play out to its fullest because Roger has a very good chance of exoneration, in my opinion. (Applause.)

I've known -- and you people understand it probably better than anybody in the room. I've known Roger Stone and his wife, who's really a terrific woman, for a long time. And Roger is definitely a character. Everybody sort of knows Roger. Everybody knows him. And most people like him. Some people probably don't, but I do and I always have. He's a smart guy. He's a little different. But those are sometimes the most interesting. But he's a good person. His family is fantastic. He's got a fantastic family. And there's always a reason for that, isn't there?

Roger was never involved in the Trump campaign for President. He wasn't involved. I think early on, long before I announced, he may have done a little consulting work or something, but he was not involved when I ran for President. And he's a person who, again, he knows a lot of people having to do with politics. His whole life is politics. That's what he is.

And it's my strong opinion that the forewoman of the jury -- the woman who was in charge of the jury -- is totally tainted. When you take a look, how can you have a person like this? She was a anti-Trump activist. Can you imagine this? (Laughter.) Now, you wouldn't know about a bad jury. Anybody here know about bad? No? (Laughter.) These people know more about bad juries than everybody here, including the sheriff and the mayor and everybody. (Laughter.)

They know about bad juries. We're not going to say it too

much, so let's not say it in front of more cameras than this.

(Laughter.) But you're my experts, okay?

No, but this is a woman who was an anti-Trump person, totally. Now, I don't know if this is a fact, but she had a horrible social media account. The things she said on the account were unbelievable. She didn't reveal that when she was chosen.

And she's, I guess, from what I hear, a very strong woman, a very dominant person, so she can get people to do whatever she wants. And she got on, and then she became the foreperson, forewoman, on the jury. And I assume they asked her a question: "Do you have any bias? Do you have any..." She didn't say that. So is that a defrauding of the court? You tell me.

But does this undermine our fair system of justice? How can you have a person like this? Did she delete her social account? And when Roger was determined by the same jury to be guilty before the judge issued a sentence -- and he was determined to be guilty -- and she started going a little wild. She's very happy. And she started saying things that people said, "That's strange. That's strange." And then they started looking at it, and how can you have a jury pool tainted so badly? It's not fair. It's not fair.

And, you know, it's not happening to a lot of other people, because you could -- look, I won't name names, but everybody knows who I'm talking about. What's happening over there? Nobody, nobody.

There are people that are even in Roger Stone's basic business of politics that were going to be in big trouble. Well-known people. The biggest people. Big trouble. They were forced to leave their firm.

One man was forced to leave his firm and he was going to -- bad things were going to happen to him the following day. Nothing happened. Nothing happened. He was the biggest; nothing happened. But it happened to Roger Stone, and it happened to General Flynn. And it happened to -- I won't name names. (Laughter.) It happened to a lot of people, and destroyed a lot of people's lives.

And I'm here to make a fair system. Again, Roger is not somebody who worked on my campaign. I know Roger, but a lot of people know Roger. Everybody sort of knows Roger. And what happened to him is unbelievable. They say he lied. But other people lied too. Just to mention, Comey lied. (Laughter.) McCabe lied. Lisa Page lied. Her lover, Strzok -- Peter Strzok -- lied. You don't know who these people are? Just trust me, they all lied. (Laughter and applause.)

You had people that forged documents. You had people that wrote fake dossiers and brought them to the FBI, and used people in the Justice Department to get them to the FBI. And these people know -- in the front row, you know better than anybody in this room what the hell I'm talking about, probably. (Laughter.)

So I'm only responding to you. I'm not even talking to the folks all the way (inaudible). (Laughter.) But they get it better than anybody too. A lot of bad things are happening, and we're cleaning it out. We're cleaning the swamp. We're draining the swamp. I just never knew how deep the swamp was. (Applause.)

So if this woman was tainted, I hope the judge will find that she was tainted. And if she isn't tainted, that will be fine too. But I'm not going to do anything in terms of the great powers bestowed upon a President of the United States. I want the process to play out. I think that's the best thing to do, because I'd love to see Roger exonerated, and I'd love to see it happen because I personally think he was treated very unfairly.

They talk about witness tampering. But the man that he was tampering didn't seem to have much of a problem with it.

(Inaudible) think they know each other for years. And it's not like the tampering that I see on television when you watch a movie. That's called tampering -- with guns to people's heads and lots of other things.

So we're going to see what it is. Maybe there was tampering and maybe there wasn't. But I can tell you that there was tremendous lying. Really, lying and leaking classified documents. That, you don't know about. But they leaked classified documents.

You know, there was a young sailor who took pictures of an old submarine and sent them to his mother and a friend. And they destroyed his life. I let him out. They were considered classified. Now, Russia and China, I guarantee you, have the pictures of this submarine, for a long time. The submarine was like 30 years old. They had them in the first year; they didn't have to wait for the 30th year. But this is a famous story. And they had these pictures, and they put him in jail. He sent them to his mother and to his friend. His friend was not interested in what you're thinking. And there were many other cases where documents were leaked, even accidentally. It's so -- classified documents are so important that even if they are leaked accidentally --

Now, Hillary Clinton leaked more classified documents than any human being, I believe -- (laughter) -- in the history of the United States of America. Right? And she deleted 33,000 emails. And she said, "Oh..." And, by the way, if you did it: five years, maybe more. Okay? But you never have access to classified. Very few people have access. She deleted 33,000 emails. I kept waiting. Because, you know, they can talk Benghazi; they can talk 100 different things.

What people understand is when you get rid of this kind of evidence -- so the United States Congress said they subpoenaed her. They wanted to see her emails. After getting the subpoena, she deleted 33,000 emails. And they said -- do you remember this? -- "yes, the emails were about her yoga classes, her exercising, and her daughter's wedding." Thirty-three thousand about her daughter's wedding? (Laughter.) That must have been the greatest wedding of all time. (Laughter.) And nothing happened to her. And yet, they'll put a young sailor in an old submarine, with a picture -- a couple of pictures -- they'll put him into jail.

And I pardoned him because it was unfair that she was able to do it at the highest level, and his level wasn't -- what he did was, it was confidential. "Confidential" is a much lower class than "classified."

So I tell you this because it's interesting. This is part of our nation. This is what's going on now.

So I'm going to let this process play out. And we want to

have a great and fair court system. And I hope you had a fair and -- you know, fair and wonderful court system. But perhaps you didn't. Perhaps you didn't. And if you didn't, we want to straighten it out. But we have to straighten it out also at the top level.

So we had a lot of dirty cops. FBI is phenomenal. I love the people in the FBI. But the people at the top were dirty cops. And if you would have read the report written about Comey -- 78 pages of kill, with a reference of "Go get him." They really said it: "Go get him." And then you read about McCabe and you see what they said. It's so bad. And we're just waiting. I'm not doing any -- I'm just sitting here, standing here, talking to you. We're waiting. (Laughter.)

So I just want to let the fake-news media know that -- (laughter) -- I just want to let them know, because there's few people more dishonest than these people, I will tell you that. And you have some very good ones. A hell of a lot more dishonest than most of you in the audience were. (Laughter.)

But I'm going to let the media know that I'm going to watch the process; I'm going to watch it very closely. And at some point, I'll make a determination.

But Roger Stone -- and everybody -- has to be treated fairly. And this has not been a fair process. Okay? (Applause.) Thank you.

So when I ran for President, I pledged to fight for those who have been forgotten, neglected, overlooked, and ignored by politicians in our nation's capital. And you understand that very well.

For decades, no one was more forgotten than citizens coming out of prison who were ready to go into a brand-new, beautiful start but couldn't find a job. They couldn't find people who believed in them.

And one of the great things that happened is I, and my administration, and a lot of very talented people that work with me, we created the strongest economy in the history of our country. (Applause.) We have the best unemployment numbers. We

have the best unemployment numbers for African American. Best in history. Asian American -- best in history. (Applause.) Hispanic American -- best in history. (Applause.) Our country is booming. We've never done better. It's the best economy we've ever had.

So when people come out -- as an example, yourselves. You're going to get great jobs. And I'll tell you the end result -- and we do studies on this: People with businesses are going to hire you. They want you more than you want them. This is the first time this has happened. Okay? (Applause.) This is the first time. They want you to do it. And they wouldn't have given you that second chance. We call it "second chance." But they wouldn't have given you that second, and in some cases, a third chance. That's okay. But they wouldn't have given you that second chance. Now they're doing it because they need people, because the economy is so good.

And I'll tell you the end result: Employers are calling. The numbers that we're getting, the respect that you're getting from people that are doing the hiring -- they can't even believe it. I had one gentleman, I talked to him -- he had seven people came out of prison. He's got seven people working for him. He said, "They're among my best." (Applause.) He said, "They are among my best people." He said, "I cannot believe it."

And you know what? (Inaudible) always work out. I'm not going to say everybody is perfect because it's not. Nobody is -- you take a group, there's always going to be somebody that doesn't work out. But he said, "I can't believe it. They are..." He's got seven now. They've been with him for quite a while. He said, "They are among the best people I have ever employed." He is so happy. It's going to happen with you. It's going to happen with them. What do you think? I think it's going to happen with this group. (Applause.)

So once I came into office, leaders from all different backgrounds asked me to make changes to our criminal justice system. And the more I learned about the issue -- a big issue -- the more I knew that criminal justice reform was really not about politics. Because you have people that are for and against it on all different levels -- Republican, Democrat, conservative, independent, liberal. Some love it, some don't love it, but

they're starting to love it. We're having tremendous success with it. And it's about doing the right thing. Because Alice Johnson -- you know, I've really gotten to know her well. And she's like an incredible person. And because of Alice, we're taking in -- we've just let out three other people that she knew.

And I say to people, "And you may have references and recommendations when you were -- wherever you may have been, frankly. You know some people that were really good people who..." Alice was in for 22 years. She had another 18 years to serve, and -- for a crime, but not that kind of a crime. And I learned about Alice Johnson. And when I learned, it really -- you know, it was really something special. She's an incredible woman. She came out of prison. You've seen the whole thing. We actually did a commercial on it. I did the commercial for people to see what this is all about.

She came out -- you couldn't hire an actor in Hollywood to have the emotion and the love and the tears and everything. She came out and she saw her family, who had totally grown up without her. And some big, strong young men. Some wonderful women. Just all family. And she was grabbing them and they were all hugging and kissing outside of this massive prison wall. And they were just screaming with joy. It was an incredible thing to see. You couldn't -- you couldn't do it. It had to be natural. It had to come from the heart. It had to come from the heart. So it was really --

So I say to Alice, and I say to other people, and I'll say to you, and I'll say to you -- you're going to have some recommendations. Do you think I'm making a mistake with him? What do you think?

AUDIENCE: No!

THE PRESIDENT: Okay. But you're going to have some recommendations. I want your recommendations. Because you have -- we have thousands of people in prison that have stories like Alice Johnson. Thousands and thousands of people. And I love doing it. I love doing it. And, you know, you can be poor. You can be middle income. You can be rich. It's -- injustice is injustice. But you have thousands of people that shouldn't be there. And I love finding those people. So, as you find them, as

you really think -- but you can't let me down. They've got to be right. (Laughter.) Because there are some people you don't want to do this with. You do know that.

I said to Alice, "So, Alice, let me ask you. You have a lot of people like yourself, right?" "Yes." "But you have bad people too, don't you?" "Yes, we do. Some very bad people." I said, "Good because I wouldn't want somebody to say, 'No everybody is good,' because that's not the case." But she's given us great recommendations, and she's a great woman.

To redress unfairness in the justice system, just over one year ago, I led the effort to pass the criminal justice reform. And others had tried and failed. And they didn't try too hard because they know it couldn't be done, but we got it done. This law rolls back provisions of the really terrible 1994 criminal -- Clinton crime law that disproportionately impacted the African American community. I mean, they liked Clinton, but they passed a law that was a disaster. You know that. But we did something about it. They were unable to do it all the way back. We did something about it. (Applause.)

And my recent budget provides over \$400 million to expand vocational training, drug treatment, and critical reentry programs just like this one. (Applause.) Okay? You know that. He knows it.

By enacting criminal justice reform, we're sending a powerful message to prisoners who have reformed their lives: When you return to society, we are not going to leave you behind. We're not leaving you behind. But now we don't have the excuse of a bad economy. They used to have the excuse, "Well, we can't do it. The economy is no good." The unemployment rates were very high. We're down to 3.5 percent. We're probably going lower. And wages are going up -- first time in 21 years. They're really going up, and going up substan- -- it's a beautiful thing. If you're, like, in my world, it's a beautiful thing to watch. It's like a picture.

Everyone in this room is here to make sure that you have the support that you need to succeed, thrive, and to never, ever look back. (Applause.) You're not going to look back. We're not going to look back. (Applause.)

And we're joined today by many great pastors and faith leaders -- some of whom I know pretty well -- who trust the power of prayer and the mercy of God to transform their lives. And I want to thank you all for being here. Thank you. Great, great faith leaders. Thank you. (Applause.) Please stand up. Please stand up. Great. Thank you. Thank you, Father. Great job. I've actually been to a couple of their churches. Thank you very much.

Also with us are employers of many different industries who are here to recruit you. Don't ask for too much. Just take it nice and easy. (Laughter.) Don't forget, they want to make a good deal, but you do too. (Laughter.) But they want to recruit you for great jobs and they're here. Who are the people that are looking? Who are the people -- the employers? Please. Yeah, stand up, please. That's great. That's great. (Applause.) That's great. Great. You're going to be happy. You're going to be very happy.

Including the Las Vegas Chamber of Commerce, who really has done a fantastic job over the years. I've known how hard they work and what a great job they do: Station Casinos, Martin and Harris Construction, Civil Werx General Contractor, Silver State Transportation, Keolis Transit, and Workforce Connections.

And I want to thank you all. And we have a lot of others outside that are coming in, too. And you're going to have a lot of -- you're going to have a lot of fun. It's nice to be loved, right? It's nice to be wanted. You're wanted. You're wanted. (Applause.) Finally -- (applause) -- yeah, you're wanted. Right, Jon?

Finally, we're proudly -- really proud to be joined by more than 80 men and women -- these people are so incredible -- of law enforcement. (Applause.) The job they do -- Sheriff -- (applause) -- the job. Please stand up. (Applause.)

You don't know how much people respect you. You don't hear it. You don't hear it. People respect you like you wouldn't believe. So we just want to thank you all. The job you do is incredible. The law enforcement. We honor your selfless service and bravery.

By the way, Fire Department, also. I just left an area of the country where two firemen were just killed, and -- terrible -- up in a certain portion of a beautiful place in California, where a building collapsed. Two people killed. Two firemen killed. And we honor them. And we -- this took place yesterday. But they're fantastic.

But I want to thank law enforcement because the job you do is incredible. And the respect that people have for you -- you'll never -- you'll never know how strong it is. It's strong, and I think it's stronger now than ever before.

And now you have an administration that loves you, backs you. We give you the equipment that you need. We give billions of dollars of equipment. We had surplus equipment -- military equipment, incredible stuff -- sitting in hundreds of warehouses all over the United States. And, for some reason, other people didn't want to give it out. But I gave it out, and I assume you got some of it. Right? You got some of it? (Applause.) I know the man. He probably got most of it, right? That's good. It keeps you safe.

As you know, Hope for Prisoners has pioneered a mentorship program with law enforcement, which has given strength and support to former inmates like Lois Hockersmith. And she joins us today. Lois. (Applause.) Where is Lois?

For many years, Lois struggled with addiction. In May of 2012, she found herself pregnant and in jail. After she served her time, Lois participated in Hope for Prisoners program. She graduated in 2013. And since then, Lois has stayed totally sober. She's earned back custody of her precious, beautiful son. And she is one of the best case managers here at Hope for Prisoners. Is that right? (Applause.) That's good. That's good. Thank you. Wow. Come on up, here, Lois. Come on up here.

Through it all, Lois has been encouraged by her mentor, who is the same officer who arrested her nearly eight years ago -- Lieutenant Steve Riback, who also joins us today. Hey, Steve, come on up. Is Steve here? Steve is here? Steve, come up. (Applause.)

LIEUTENANT RIBACK: (Inaudible), sir.

THE PRESIDENT: Well, we're with you 100 percent. It's great.

Please, would you like to say something?

MS. HOCKERSMITH: Yes. So, first of all, I want to thank this officer. He saved our lives that night that he arrested me and my son. He arrested me. (Laughter.) I was pregnant with him and I gave birth to him that night. And not all our heroes wear capes; some wear badges. Had he not been doing his job that night, I wouldn't be here.

Jon Ponder, listen, we've been through a lot of things together. 2012 -- that's when I went through the program, and my life changed that day. I am standing in front of the President. I'm a little bit nervous. (Laughter and applause.)

I just want you to know that I'm standing amongst heroes, but you guys -- if it wasn't for you guys to come back in and for being able to pour back into you -- this is how I keep it: by giving it back to you guys. Thank you. (Applause.) And thank you, Mr. President.

THE PRESIDENT: Thank you. Take care of mom. Right? So beautiful.

Would you like to say thing? Please. (Laughter.) He feels very comfortable, you can see.

LIEUTENANT RIBACK: I had a well-prepared speech for this. (Laughter.) The credit, 100 percent, goes to Lois. And, to be completely candid, I was doing nothing no different than I had done for years and years that night. I definitely believe it was divine that we came across each other. But the credit goes to her, the credit goes to Jon, the credit goes to you guys as -- as hopefuls.

And I just wish you a tremendous amount of success in the rest of your life. It's only forward at this point. And you have an incredible team, an incredible community, and I'm so honored to be a part of it. But, again, the credit goes to these people right here. Thank you. (Applause.)

THE PRESIDENT: That was a good job. That was a good job. (Applause.) Wow. He did okay, fellas, right? (Laughter.) He did okay. He did a great job. Thank you both, Lois and Steve.

You remind us, really, that -- all of us -- that anything is possible. And Lois is among the roughly 100 Hope for Prisoners alumni here today, all of whom are doing incredibly well. Please stand. Please stand, all of the alumni. (Applause.) Wow. That's great. That's great. That's great. (Applause.) Great. Congratulations. Thank you very much.

But they're really a testament to the bright future that awaits you all. It's a great -- it's a great time in our country in so many ways. Our military is strong, our country is just strong. We're stronger in, I would say, just about every way than we ever have been before -- militarily.

You take a look at what we're doing with the stock market. We've had 144 out of three years -- I've been here just a little more than three years. And in a little more than three years, Jon, we've had 144 stock market records.

Now, that's good for everybody. It's good for your 401(k)s and it's good for jobs. And it's good for -- those are the ones that I think about first: jobs, 401(k)s. And people are making a lot of money and people are getting tremendous -- you'll be investing some of your money in this now. You'll be doing fantastically well and you're going to have 401(k)s or something -- the equivalent. And you're going to do fantastically well.

And, you know, as I say sometimes in speeches: The best is yet to come. We have tremendous potential. We have just made some incredible trade deals that will soon start kicking in. It's going to make it a different country, economically. As good as it does, it's going to be much better.

We had horrible, horrible deals, or no deals at all, and now we have phenomenal deals. We made a massive deal with China. Then we did the USMCA; that's Mexico, Canada. We did a 40-billion-dollar-a-year deal with Japan and we did a deal with South Korea, and we have other deals too. And I'm going to India next week and we're talking about -- you know, they have 1.5 billion

people, and Prime Minister Modi is number two on Facebook. Number two. Think of that.

You know who number one is? Trump. Do you believe that? (Applause.) Trump. Number one. I just found that out. The head of Facebook, Mr. Zuckerberg, came in three weeks ago. He said, "Congratulations." I said, "On what?" He said, "You're number one on Facebook." I said, "That's cool." (Laughter.) Number one on Twitter too. But that's because -- (laughter and applause.) It's true.

And if I wasn't, I could never say it because it would be breaking news that -- (laughter) -- that Trump told a fib. No, number one. And I congratulated Prime Minister Modi. I said, "But, you know, you have 1.5 billion people. I have 350 million. You have an advantage."

But we're going to India, and we may make a tremendous deal there, or maybe we'll slow it down. We'll do it after the election. I think that could happen too. So we'll see what happens. But we're only making deals if they're good deals, because we're putting America first. Whether people like it or not, we're putting America first. (Applause.)

So to help you find housing, jobs, and support, I established, as you know very well, the Council on Crime Prevention and Reentry. They've done a fantastic job. And here with us today are new executive director, Tony Lowden. Tony, would you just come up and say a few words, please? Tony Lowden. Thank you, Tony. (Applause.)

He looks good. (Laughter.) Hi, Tony.

MR. LOWDEN: Thank you, sir. To God be the glory.

Listen, this is what reentry looks like: when our law enforcement, our returning citizens, our faith community, business in our community, along with their children, can come together in a holistic approach and bring us together. Under this President, has showed America what reentry looks like. (Applause.)

They say, "What happens in Vegas, stays in Vegas." (Laughter.) But I want to tell you that, today, the entire world

have been put on notice that here, Jon, under this President and our administration, this will no longer be a secret. This will be the norm for America. God bless you. (Applause.)

THE PRESIDENT: Thank you, Tony. Wow. (Applause.) Beautiful. Thank you, Tony. Wow. That's great. Respected guy.

For too long, citizens with a record were not even considered for jobs -- you know that -- even if they were qualified, rehabilitated totally, and ready to go to work. They wanted to go to work. But all of that is changing.

And we began a nationwide campaign to encourage businesses to expand Second Chance hiring. We call it "Second Chance hiring." When we say "hire American," we mean all Americans. All Americans. (Applause.) And our entire nation wins when citizens with a record have a chance to succeed.

It's such a tremendous -- what's happened over the last three years is incredible. People came out, they didn't have a chance, and now they're not only having a chance -- you're going to see it a little while when these guys try and make a deal. "I want a little bit more. Get me a little bit more." (Laughter.)

Together, we're rebuilding the most prosperous economy and the most inclusive society, Jon, ever to exist. We are becoming a very inclusive society, much more so than in the past. And a lot of people haven't figured that out yet, but I think they will. I think people are going to figure it out pretty soon.

We want every citizen to join America's unparalleled success and every community to take part in America's extraordinary rise. Since my election, we have created 7 million new jobs. (Applause.) The unemployment rate has reached the lowest rate in over 51 years. Think of that: 51 years. Half a century. (Applause.)

And, by the way, the 7 million jobs -- they thought it might be 2 million, if we're lucky. You go back three years, they were saying "2 million." We did 7 million, and it's pretty amazing.

African American poverty has declined to the lowest rate ever recorded. (Applause.) But I think one of the things we're most

proud of in this incredible economy -- we'll call it "Trump economy." Call it -- we'll call it the "Ponder economy." We'll call it something. (Laughter.)

But whatever we call it, this economy has been great. And the thing that might be the best of all is what we've done with criminal justice reform. I really think so. (Applause.)

Our jobs market is so strong that businesses are recruiting the former prisoners off the sidelines in, by the way, record numbers. Record numbers. Never happened anywhere even close to these numbers.

We know that having a job gives you the best chance to work hard, to earn the paycheck, care for your families, chase your dreams, and succeed.

Through our Pledge to America's Workers, spearheaded by a very famous young woman -- did you ever hear of Ivanka? (Laughter and applause.) She did. She's -- she said, "Daddy, I want to help with jobs." I said, "Well, I'll put you here, there." "No, no. I want to help with jobs. I want to get people jobs. They have to be trained. They have to be..."

So she had a goal of 500,000 jobs. That's a lot -- half a million jobs. She just broke, Jared, I guess -- is Jared around? She just broke -- she just broke -- Jared Kushner -- she just broke -- the father of criminal justice reform. He really is. I mean, he works so hard. And Ivanka just was broke 15 million jobs. Fifteen. (Applause.) Mayor, that's good, right? (Applause.)

And this is where they -- they train the people in the companies. The government can't do this. Walmart took a million people. Think of it. These big companies take -- and they train them. It's very complicated stuff, with computerization and all of the things you have to learn. That's not for government.

Fifteen million people taken by many of the biggest companies, but also midsized companies, even some smaller. But she broke 15 million people about two weeks ago. And her goal was 500,000 people over a fairly long period of time. Fifteen million. But if you know Ivanka, you're not at all surprised.

Believe me. I wasn't surprised. I was sort of saying, "So what else is new?" (Applause.)

To every returning citizen here today, I know that there are some in our society who want to tell you what you can't do. They're going to tell you what you can't do. It's one of the reasons I wanted to be here. I wanted to say what I had to say to Jon, too, because I sort of had that on my mind for a long time -- actually, the first time I met him.

But they want to tell you what you can't do. They want to tell you why you can't succeed; no way you can succeed. You don't want to listen to them because you're proving different. They want to say why you can't make it in this country, why you can't make it in any country. They think you're not going to make it, period.

But do not believe those voices for one second, because I'm here today because I believe in what you can do. You're going to be incredible. You're going to be incredible. You're going to see it, and it's going to go quickly.

Each of you is a citizen of the greatest country on Earth. There is more opportunity, more equality, and more potential in America today than in any society in the history of the world. It's true. This is the country where anyone can make a comeback. We made a comeback with our country. We call it the "great American comeback." This is the great American comeback, and you're doing the same thing. This is a nation where anyone can rise. And this is the time when anyone can reach for the American Dream. That beautiful American Dream. It's what you're doing. (Applause.)

And whenever you have any doubt, whenever the road gets tough -- and it will; you'll have those days. I've had those days. (Laughter.) I mean, I didn't do anything wrong, and they impeached me a few weeks ago, right? They impeached and I said, "What happened? What did I do?" Ay-ya-yay. (Laughter.) You think that was fun? Mayor, you think that's great to be impeached? The good news: My numbers went through the roof. I mean, you explain -- explain this to me. (Laughter.) Explain this to me. (Applause.)

But you'll have those days, right? You're going to have those days. But you're Americans, and you're great Americans. And Americans meet challenges. You defy expectations. You never give up. You never lose faith in the redeeming power of Almighty God.

And from this day forward -- I'm here, I'm the President. I don't have to do this. I could be someplace else. But I wanted to be here, and we -- I had plenty of choices. One thing as President -- the Mayor can tell you -- we have plenty of choices. Right? We have a lot of choices. I wanted to be here.

But I ask each of you to seize your unlimited future. If you do, you will make the most of your incredible newfound freedom. You're pioneers in a way, because you're at a point in the country when it's just all come together. You will unlock your unique talents and skill and aspirations. You'll join a great project of national renewal.

And together, we will make our country stronger than ever before. Thank you very much for being here. God bless you, and God bless America.

Thank you. (Applause.) Thank you.

END

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