



United States Senate

December 12, 2017

Trump for America
c/o Mr. Kory Langhofer
Statecraft PLLC
649 North Fourth Avenue, First Floor
Phoenix, AZ 85003

Dear Mr. Langhofer:

We understand that you represent Trump for America, the transition team for President Trump. We are writing with a request for documents that will assist the Committee with its investigation regarding Russian interference in the 2016 election.

On December 1, 2017, Lt. General Michael Flynn pleaded guilty to lying to the FBI about his discussions with then-Russian Ambassador Sergey Kislyak about U.S. sanctions imposed upon Russia in retaliation for Russia's interference in the 2016 U.S. election.¹ The Statement of Offense for that plea states that General 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."² Soon after that discussion, General Flynn called the Russian Ambassador, reporting back to the senior official about that call.³

That "senior official" reportedly was K.T. McFarland, who became the deputy national security adviser. The day before these calls, Ms. McFarland reportedly emailed another colleague about President Obama's decision to impose

¹ Plea Agreement, *United States v. Michael Flynn*, No. 17-cr-00232-RC (D.D.C., Dec. 1, 2017).

² *U.S. v. Flynn*, No. 17-cr-00232 (D.D.C. Nov. 30, 2017), Statement of Offense at ¶3(c).

³ *Id.*

sanctions on Russia for interfering in the 2016 election, expressing concern that this would make it harder for Trump to ease tensions with Russia.⁴

The transition team had been warned about hiring General Flynn. Two days after the election, President Obama expressed serious concerns and cautioned President-elect Trump against hiring General Flynn as part of his national security team.⁵ Then, on November 18, 2016, the House Committee on Oversight and Government Reform sent a letter to Vice President-elect Pence, as head of the transition team, raising questions about General Flynn and outlining his connections to the Turkish government.⁶ And in early January 2017, General Flynn reportedly told the transition team that he was under investigation for lobbying work that he had done for Turkey during the campaign.⁷

The Intelligence Community has concluded that Russia interfered in the 2016 election, with the goal of undermining faith in our democratic processes and harming Secretary Clinton's candidacy.⁸ As explained in the January 6, 2017 Intelligence Community assessment: "We further assess Putin and the Russian Government developed a clear preference for President-elect Trump."⁹ Former FBI Director James Comey was leading the FBI's investigation into Russian interference in the 2016 election – including possible ties to the Trump campaign – when he was summarily dismissed by the President. Director Comey testified that, the day after he fired Lt. General Flynn, President Trump told Comey: "I hope you can see your way clear to letting this go, to letting Flynn go."¹⁰

The Committee is investigating these matters, and we ask that you provide the following documents to the Committee, covering the time period from November 9, 2016 to January 20, 2017:

1. All documents concerning the selection of Lt. General Michael Flynn as national security advisor, including communications regarding any statements

⁴ Michael S. Schmidt, Sharon LaFraniere, and Scott Shane, "Emails Dispute White House Claims That Flynn Acted Independently on Russia," N.Y. Times (Dec. 2, 2017).

⁵ Michael D. Shear, "Obama Warned Trump About Hiring Flynn, Officials Say," N.Y. Times (May 8, 2017).

⁶ Letter from Rep. Elijah Cummings, House Oversight and Government Reform Committee to Vice President-Elect Michael Pence (Nov. 18, 2016).

⁷ Matthew Rosenberg and Mark Mazzetti, "Trump Team Knew Flynn Was Under Investigation Before He Came to White House," May 17, 2017.

⁸ Office of the Director of National Intelligence, "Assessing Russian Activities and Intentions in Recent US Elections," ICA 2017-01D, January 6, 2017, at 2-3.

⁹ Office of the Director of National Intelligence, "Assessing Russian Activities and Intentions in Recent US Elections," ICA 2017-01D, January 6, 2017.

¹⁰ Testimony of James Comey before the Senate Intelligence Committee (June 8, 2017).

made by Donald Trump, the transition team, or the White House about Lt. General Flynn;

2. All documents concerning Lt. General Flynn's conversations or meetings with Ambassador Kislyak or other Russian government officials, associates, or representatives;
3. All communications related to the story written by David Ignatius that appeared in the Washington Post on January 12, 2017, titled "Why did Obama dawdle on Russia's hacking";
4. All communications to, from, copying, or referencing Lt. General Flynn related to US foreign policy on Russia (including sanctions or Russia's relationship with the Ukraine), Turkey or the Turkish government, Fethullah Gulen, Sergey Kislyak, the Foreign Agent Registration Act (FARA), any federal or state inquiries or investigations, or any contacts with foreign governments officials, associates, or representatives, including any individuals who purported to act or whom were believed to be acting on behalf of or in concert with foreign government officials, associates, or representatives;
5. All communications concerning contacts between Donald Trump, members of the Trump campaign or transition team, or associates of the Trump Organization and Russian government officials, associates, or representatives, including any individuals who purported to act or whom were believed to be acting on behalf of or in concert with Russian government officials, associates, or representatives;
6. All communications concerning US foreign policy on Russia (including sanctions against Russia or Russia's relationship with the Ukraine), Sergey Kislyak, or Vladimir Putin;
7. All documents concerning the Republican National Party Platform with regard to Russia, Ukraine, or Turkey;

8. All communications concerning Russian interference in the 2016 election, including all communications regarding emails of the Democratic National Committee, John Podesta, or Hillary Clinton;
9. All documents concerning FBI Director Comey's interactions with President-elect Trump during the transition period.

Finally, as we are sure you are aware, there is no executive privilege for documents created during a presidential transition. See, e.g., *Fish v. Kobach*, 2017 U.S. Dist. LEXIS 58280, at *17 (D. Kan. Apr. 17, 2017) (holding that there is no executive privilege for a member of the transition team who was communicating with the president-elect).

We appreciate your cooperation and prompt attention to this important matter and ask that you provide the requested material as soon as possible, but no later than December 30, 2017. Please contact Brian Privor on my staff at (202) 224-7703 to discuss arrangements for document production.

Sincerely,



Dianne Feinstein
United States Senator

cc: The Honorable Charles E. Grassley