

ACT 4

PLAY'S INTRODUCTION

NARRATOR

The Mueller Report - The Play: 10
Acts of Obstruction

Act 4

This play is a translation of
Mueller's Report Volume II
Obstruction of Justice evidence.
Mueller's evidence is based on sworn
testimonies, documents, recordings
and other objective evidence.

The play directly translates the
evidence descriptions into active
dialogue. One can almost follow the
Mueller report paragraph by paragraph
throughout the play.

NARRATOR (cont'd)

Obstruction E. in Mueller Report
Volume II page 77: Trump's Efforts to
Remove the Special Counsel.

Evidence #1. The Appointment of the
Special Counsel and Trump's Reaction

May 17, 2017

Acting Attorney General Rosenstein
appointed Robert S. Mueller, III as
Special Counsel and authorized him to
conduct the Russia investigation and
matters that arose from the
investigation.

NARRATOR (cont'd)

Trump, Hunt, McGahn and Sessions are conducting interviews for a new FBI Director in Oval Office. Rosenstein and Sessions step out of the meeting to talk

TRUMP, HUNT, MCGAHN AND SESSIONS STEP FORWARD

ROSENSTEIN

(to Sessions who stepped out of meeting)

I have appointed Robert S. Mueller as Special Counsel and authorized him to conduct the Russia investigation and matters that arose from the investigation.

SESSIONS

Okay

NARRATOR

then back in the meeting

SESSIONS

(to interview group)

Rosenstein has appointed Robert S. Mueller as Special Counsel and authorized him to conduct the Russia investigation and matters that arose from the investigation.

TRUMP

(slumped back in his chair)

Oh my God. This is terrible. This is the end of my Presidency. I'm fucked.

TRUMP (cont'd)

(angry lambasting Sessions)

How could you let this happen, Jeff? The position of Attorney General is my most important appointment and you have let me down. This is not how Eric Holder and Robert Kennedy behaved. You were supposed to protect me. Everyone tells me if you get one of these independent counsels it ruins your presidency. It takes years and years and I won't be able to do anything.

(MORE)

TRUMP (cont'd)

This is the worst thing that ever happened to me. You should resign as Attorney General.

SESSIONS

I agree to submit my resignation.
(and left the Oval
Office)

NARRATOR

Sessions leaves the meeting. Shortly after the meeting Hicks sees Trump

HICKS STEPS FORWARD

HICKS

(sees Trump and to
herself)

Trump is extremely upset by the Special Counsel's appointment. I have only seen Trump like this one other time, when the Access Hollywood tape came out during the campaign.

NARRATOR

May 18, 2017 FBI agents deliver a notice to McGahn

FBI AGENTS AND MCGAHN STEP FORWARD

FBI AGENTS

Here is a preservation notice that identifies an investigation related to Comey's termination and directs the White House to preserve all relevant documents.

NARRATOR

McGahn issues a document hold to all White House staff

MCGAHN AND WHITE HOUSE STAFF STEP FORWARD

MCGAHN

Here is a document hold notice. Do not send out any burn bags over the weekend while I sort things out.

NARRATOR

Also on May 18 Sessions accompanied by Hunt goes to the White House to resign

SESSIONS, HUNT, AND TRUMP STEP FORWARD

SESSIONS

Here is my resignation letter that states "Pursuant to our conversation of yesterday, and at your request, I hereby offer my resignation."

NARRATOR

Trump puts the resignation letter in his pocket and asks Sessions several times ...

TRUMP

(put the resignation letter in his pocket and asks Sessions several times)

Do you want to continue serving as Attorney General?

SESSIONS

I do want to stay, but it is up to you.

TRUMP

I want you to stay.

NARRATOR

Trump shakes Sessions' hand but does not return the resignation letter.

Later Priebus and Bannon meet

PRIEBUS AND BANNON STEP FORWARD

PRIEBUS

Trump is holding onto Sessions' resignation letter.

BANNON

This is a concern because it could be used to influence the Department of Justice.

NARRATOR

And later Priebus and Bannon talk to Sessions

PRIEBUS, BANNON AND SESSIONS STEP FORWARD

PRIEBUS

(to Sessions)

It is not good for Trump to have the letter because it will function as a kind of "shock collar" that Trump can use any time he wants. Trump has DOJ by the throat.

BANNON

We will attempt to get the letter back from Trump with a notation that he is not accepting your resignation.

NARRATOR

May 19, 2017 on flight from Saudi Arabia to Tel Aviv Trump takes the resignation letter from his pocket and asks his senior advisers ...

TRUMP AND SENIOR ADVISERS STEP FORWARD

TRUMP

(taking from his pocket)

Here is Sessions' resignation letter. What should I do about it?

NARRATOR

Later on the trip Priebus asks Trump ...

PRIEBUS AND TRUMP STEP FORWARD

PRIEBUS

Can I have the resignation letter so I can return it to Sessions?

TRUMP

No. I don't have it. It's back at the White House, somewhere in the residence.

NARRATOR

May 30, 2017 three days after return from trip Trump returns the letter to Sessions with a notation saying, "Not accepted."

NARRATOR

Evidence #2. Trump Asserts that the Special Counsel has Conflicts of Interest

In the days following the Special Counsel's appointment, Trump repeatedly confronts his advisers separately including Priebus, Bannon and McGahn

TRUMP, WHITE HOUSE ADVISERS INCLUDING PRIEBUS, BANNON, AND MCGAHN STEP FORWARD

TRUMP

(repeatedly to each one)

Special Counsel Mueller has conflicts of interest. Mueller had interviewed for the FBI Director position shortly before being appointed as Special Counsel, he had worked for a law firm that represented people affiliated with me, and Mueller had disputed certain fees relating to his membership in a Trump golf course in Northern Virginia.

WHITE HOUSE ADVISERS

Those do not count as true conflicts.

BANNON

The purported conflicts you state are ridiculous and none of them are real or can come close to justify precluding Mueller from serving as Special Counsel. As for Mueller's interview for FBI Director, the White House had invited Mueller to speak to Trump to offer a perspective on the institution of the FBI. Although the White House thought about beseeching Mueller to become Director again, Mueller did not come in looking for the job. Also, the law firm position did not amount to a conflict in the legal community. And the golf course dispute does not rise to the level of a conflict and claiming one is "ridiculous and petty."

TRUMP

(Silence. Does not respond.)

NARRATOR

May 23, 2017 the press reports

PRESS

The Department of Justice announced that ethics officials have determined that the Special Counsel's prior law firm position does not bar his service. Mueller had been cleared to serve.

NARRATOR

Trump calls McGahn

TRUMP AND MCGAHN ON PHONES STEP FORWARD

TRUMP

This call is about knocking out Mueller. I strongly believe that there are conflicts. Reach out to Rosenstein about the issue.

MCGAHN

I cannot make such a call and you should not as well. You should instead consult your personal lawyer because this is not a White House issue.

(MORE)

MCGAHN (cont'd)

You can discuss the issue with your personal attorney but it would look like you are still trying to meddle in the investigation, and trying to knock out Mueller would be another fact used to claim obstruction of justice. Your biggest exposure is not your act of firing Comey but your other contacts and calls, and your ask for Flynn.

NARRATOR

The press reports

PRESS

Trump requested loyalty from Comey. He also requested that Comey let Flynn go.

NARRATOR

Trump publicly states...

TRUMP STEPS FORWARD

TRUMP

I did not. Fake news.

NARRATOR

The press reports

PRESS

Trump told the Russian Foreign Minister that the termination of Comey had relieved great pressure related to Russia.

NARRATOR

Trump reacts ...

TRUMP STEPS FORWARD

TRUMP

(silence)

NARRATOR

June 8, 2017 the press reports

PRESS

Comey has testified before Congress about his interactions with Trump before his termination, including the request for loyalty, the request that Comey "let Flynn go," and the request that Comey "lift the cloud" over the presidency caused by the ongoing investigation. Is this evidence that Trump has obstructed justice?

NARRATOR

June 9, 2017 Special Counsel's Office informs the White House Counsel's Office ...

SPECIAL COUNSEL'S OFFICE AND WHITE HOUSE COUNSEL'S OFFICE
STEP FORWARD

SPECIAL COUNSEL'S OFFICE

Our investigators intend to interview intelligence community officials who have allegedly been asked by Trump to push back against the Russia investigation.

NARRATOR

June 12, 2017 - Priebus, Bannon and Christopher Ruddy, the chief executive of Newsmax Media and a longtime friend of Trump's, meet at the White House

PRIEBUS, BANNON AND RUDDY STEP FORWARD

PRIEBUS

Bannon and I believe that Trump is strongly considering firing the Special Counsel and that he will do so precipitously, without vetting the decision through Administration officials.

RUDDY

Priebus, can I talk publicly about this discussion we are having about the Special Counsel?

PRIEBUS

Yes. I hope another blow up like the one that followed the termination of Comey does not happen.

NARRATOR

Later that day at multiple televised interviews Ruddy says ...

RUDDY AND PRESS STEP FORWARD

RUDDY

Trump is considering perhaps terminating the Special Counsel based on purported conflicts of interest.

RUDDY (cont'd)

(To another interviewer)

Trump is definitely considering terminating the Special Counsel and it's not something that's being dismissed.

PRESS

(All press together saying)

Trump is considering firing the Special Counsel.

NARRATOR

White House officials are unhappy with press coverage and Ruddy heard from friends that Trump is upset with the Special Counsel.

June 13, 2017 Sanders speaks with Trump

SANDERS AND TRUMP STEP FORWARD

SANDERS

Please give me guidance on how to respond to press inquiries about the possible firing of the Special Counsel.

TRUMP

I will now dictate an answer

NARRATOR

Later at a press conference

SANDERS AND PRESS STEP FORWARD

SANDERS

While Trump has every right to fire the Special Counsel, he has no intention to do so.

NARRATOR

June 13, 2017 Trump's personal attorney contacts the Special Counsel's office

TRUMP'S PERSONAL COUNSEL AND SPECIAL COUNSEL'S OFFICE STEP FORWARD

TRUMP'S PERSONAL COUNSEL

We have concerns about possible conflicts. Such as, Mueller's previous partnership in his law firm, his interview for the FBI Director position, and an asserted personal relationship he had with Comey.

NARRATOR

Rosenstein testifying before Congress

ROSENSTEIN STEPS FORWARD

ROSENSTEIN

I see no evidence of good cause to terminate the Special Counsel, including for conflicts of interest.

NARRATOR

June 15, 2017 Special Counsel's Office informs the Acting Attorney General's Office ...

SPECIAL COUNSEL'S OFFICE AND ACTING ATTORNEY GENERAL'S OFFICE STEP FORWARD

SPECIAL COUNSEL'S OFFICE

These are the areas of concern raised by Trump's personal attorney.

NARRATOR

Then the Special Counsel's Office confirmed with Trump's personal attorney ...

SPECIAL COUNSEL'S OFFICE AND TRUMP'S COUNSEL STEP FORWARD

SPECIAL COUNSEL'S OFFICE

Your concerns have been communicated to Rosenstein so that the Department of Justice can take any appropriate action.

NARRATOR

Evidence #3. The Press Reports that Trump is Being Investigated for Obstruction of Justice and Trump Directs the White House Counsel to Have the Special Counsel Removed

June 14, 2017 - The first public report that Trump himself is under investigation by the Special Counsel's Office

The press reports ...

PRESS

(Washington Post)

The Special Counsel is investigating whether Trump has attempted to obstruct justice. The Special Counsel is interviewing intelligence community leaders, including Coats and Rogers, about what Trump has asked them to do in response to Comey's March 20, 2017 testimony. This inquiry into obstruction marks a major turning point in the investigation. While Trump has received private assurances from then-FBI Director James B. Comey starting in January that he was not personally under investigation, officials say that changed shortly after Comey's firing.

NARRATOR

Cable news networks report

PRESS
(another press
person - Cable news
networks)

The Washington Post is reporting that
Special Counsel is investigating
whether Trump has attempted to
obstruct justice.

NARRATOR
That evening, at approximately 10:31
p.m Trump calls McGahn

TRUMP AND MCGAHN ON PHONES STEP FORWARD

TRUMP
What about this reporting that I am
under investigation?

MCGAHN
You are calling my personal cell
phone?
(Talking continues)

NARRATOR
The conversation lasted for about 15
minutes.

Early the next day, June 15, 2017
Trump makes three separate tweets

TRUMP TWEETING STEPS FORWARD
(Three separate
tweets)

TRUMP
They made up a phony collusion with
the Russians story, found zero proof,
so now they go for obstruction of
justice on the phony story. Nice"

TRUMP (cont'd)
You are witnessing the single
greatest WITCH HUNT in American
political history-led by some very
bad and conflicted people!

TRUMP (cont'd)
Crooked H destroyed phones w/ hammer,
'bleached' emails, & had husband meet
w/AG days before she was cleared- &
they talk about obstruction?"

NARRATOR
June 16, 2017 Trump makes two
separate tweets

TRUMP TWEETING STEPS FORWARD
(Two separate tweets)

TRUMP
After 7 months of investigations &
committee hearings about my
'collusion with the Russians,' nobody
has been able to show any proof. Sad!

TRUMP (cont'd)
I am being investigated for firing
the FBI Director by the man who told
me to fire the FBI Director! Witch
Hunt.

NARRATOR
June 17, 2017 Trump calls McGahn

TRUMP AND MCGAHN ON PHONES STEP FORWARD

TRUMP
Remove the Special Counsel! Call
Rosenstein and say Mueller has
conflicts that precludes him from
serving as Special Counsel. You gotta
do this. You gotta call Rod.

MCGAHN
I will see what I can do.

MCGAHN (cont'd)
(after call,
to himself)
This call is unsettling. I do not
intend to act on the request. Other
advisers and I believe the asserted
conflicts are silly and not real, and
we have previously communicated that
view to Trump.

(MORE)

MCGAHN (cont'd)

I have also made clear to Trump that the White House Counsel's Office should not be involved in any effort to press the issue of conflicts. I am concerned about having any role in asking the Acting Attorney General to fire the Special Counsel because coming from the Reagan era, I want to be more like Judge Robert Bork and not "Saturday Night Massacre Bork." I believe that Trump's request is an inflection point and I want to hit the brakes.

NARRATOR

Trump calls McGahn again

TRUMP

(on second call to McGahn)

I mean it. Remove the Special Counsel! Call Rod, tell Rod that Mueller has conflicts and can't be the Special Counsel.

MCGAHN

I understand. Okay.

MCGAHN (cont'd)

(after call, to himself)

I just wanted to get off the phone. I am worn down. He has the impression that I am going to do it. I feel trapped.
I do not know what I will say the next time Trump calls. I must resign.

NARRATOR

McGahn calls his personal attorney

MCGAHN AND PERSONAL ATTORNEY ON PHONES STEP FORWARD

MCGAHN

I am resigning.

NARRATOR

Then he calls his chief of staff, Annie Donaldson

MCGAHN AND HIS CHIEF OF STAFF, ANNIE DONALDSON ON PHONES
STEP FORWARD

MCGAHN

I am resigning.

NARRATOR

McGahn then drove to his office to pack his belongings and submit his resignation letter. Here he talks to Annie Donaldson, his Chief of Staff

MCGAHN AND DONALDSON STEP FORWARD

MCGAHN

Trump has called and demands that I contact the Department of Justice. Trump wants me to do something that I do not want to do. Trump has called at least twice more and in one of the calls has asked "have you done it?"

MCGAHN (cont'd)

(to himself)

I don't want to tell Donaldson the specifics of Trump's request because I am consciously trying not to involve her in the investigation.

DONALDSON

(to self)

Trump's directive must be related to the Russia investigation. I will prepare to resign along with McGahn.

NARRATOR

That evening McGahn calls Priebus and Bannon separately

MCGAHN, PRIEBUS AND BANNON ON PHONES STEP FORWARD

MCGAHN

(Separate call to
Priebus)

I intend to resign. Trump has asked me to do crazy shit.

PRIEBUS

No. Please don't quit.

MCGAHN

(to himself)

I am not going to share details of Trump's request with other White House staff.

PRIEBUS

(to himself)

McGahn does not tell me the specifics of Trump's request because McGahn is trying to protect me from what I do not need to know.

MCGAHN

(Separate call to Bannon)

I intend to resign. Trump has asked me to do crazy shit.

BANNON

No. Please don't quit.

NARRATOR

McGahn ultimately returned to work that Monday and remained in his position.

He had not told Trump directly that he planned to resign, and when they next saw each other Trump did not ask McGahn whether he had followed through with calling Rosenstein.

Around the same time Trump calls Chris Christie

TRUMP AND CHRIS CHRISTIE ON PHONES STEP FORWARD

TRUMP

What do you think about my firing the Special Counsel?

CHRISTIE

Don't do it. There is no substantive basis for you to fire the Special Counsel. Also, you would lose support from Republicans in Congress if you do so.

NARRATOR

Pages 87 to 90 of Volume II of the Mueller report outlines the relevance of the evidence presented in Act 4 to the elements of the case for obstruction of justice. The analysis includes the principles of an Obstructive Act, Nexus to a proceeding, and Intent. The audience is encouraged to review that analysis.

Substantial evidence indicates that the President's attempts to remove the Special Counsel were linked to the Special Counsel's oversight of investigations that involved the President's conduct and, most immediately, to reports that the President was being investigated for potential obstruction of justice.

Before the President terminated Comey, the President considered it critically important that he was not under investigation and that the public not erroneously think he was being investigated. As described in Volume II, Section II.D, supra, advisers perceived the President, while he was drafting the Comey termination letter, to be concerned more than anything else about getting out that he was not personally under investigation. When the President learned of the appointment of the Special Counsel on May 17, 2017, he expressed further concern about the investigation, saying "this is the end of my Presidency."

The President also faulted Sessions for recusing, saying "you were supposed to protect me."

NARRATOR (cont'd)

On June 14, 2017, when the Washington Post reported that the Special Counsel was investigating the President for obstruction of justice, the President was facing what he had wanted to avoid: a criminal investigation into his own conduct that was the subject of widespread media attention. The evidence indicates that news of the obstruction investigation prompted the President to call McGahn and seek to have the Special Counsel removed. By mid-June, the Department of Justice had already cleared the Special Counsel's service and the President's advisers had told him that the claimed conflicts of interest were "silly" and did not provide a basis to remove the Special Counsel. On June 13, 2017, the Acting Attorney General testified before Congress that no good cause for removing the Special Counsel existed, and the President dictated a press statement to Sanders saying he had no intention of firing the Special Counsel. But the next day, the media reported that the President was under investigation for obstruction of justice and the Special Counsel was interviewing witnesses about events related to possible obstruction-spurring the President to write critical tweets about the Special Counsel's investigation. The President called McGahn at home that night and then called him on Saturday from Camp David. The evidence accordingly indicates that news that an obstruction investigation had been opened is what led the President to call McGahn to have the Special Counsel terminated.

There also is evidence that the President knew that he should not have made those calls to McGahn.

(MORE)

NARRATOR (cont'd)

The President made the calls to McGahn after McGahn had specifically told the President that the White House Counsel's Office--and McGahn himself--could not be involved in pressing conflicts claims and that the President should consult with his personal counsel if he wished to raise conflicts. Instead of relying on his personal counsel to submit the conflicts claims, the President sought to use his official powers to remove the Special Counsel. And after the media reported on the President's actions, he denied that he ever ordered McGahn to have the Special Counsel terminated and made repeated efforts to have McGahn deny the story, as discussed in Volume II, Section II.I, *infra*. Those denials are contrary to the evidence and suggest the President's awareness that the direction to McGahn could be seen as improper.

End of Act 4