

ACT 8

PLAY'S INTRODUCTION

NARRATOR

The Mueller Report - The Play: 10
Acts of Obstruction

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)

Act 8

To provide background for Act 8 here
are some relevant scenes from Act 4:

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

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.

(MORE)

PRESS (cont'd)

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.

PRESS (cont'd)

(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 that 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.
(MORE)

MCGAHN (cont'd)

Other advisers and I believe the asserted conflicts are "silly" and "not real," and we have previously communicated that view to Trump. 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.

Now to continue Act 8 for Obstruction I.

Obstruction I. in Mueller Report
Volume II page 113: Trump Orders
McGahn to Deny that Trump Tried to
Fire the Special Counsel.

The first evidence of Obstruction I
is the Press Reports that Trump Tried
to Fire the Special Counsel

NARRATOR (cont'd)
January 25, 2018 - Press reports six
months after the actual act occurred

PRESS
(The New York Times)
In June 2017, Trump had ordered
McGahn to have the Department of
Justice fire the Special Counsel.

After receiving Trump's order to fire
Special Counsel Mueller, the White
House counsel Don McGahn refused to
ask the Justice Department to dismiss
Mueller, saying he would quit
instead. Trump "ultimately backed
down after McGahn threatened to
resign rather than carry out the
directive.

NARRATOR
Also, amid the first wave of news
media reports that Mueller was
examining a possible obstruction
case, Trump began to argue that
Mueller had three conflicts of
interest that disqualified him from
overseeing the investigation.
Trump also publicly stated ...

TRUMP AND PRESS STEP FORWARD

TRUMP
Fake news, folks. Fake news. A
typical New York Times fake story.

NARRATOR
The next day Washington Post reported
on the same event and added

PRESS
McGahn had not told Trump directly
that he intended to resign rather
than carry out the directive to have
the Special Counsel terminated.

NARRATOR
Evidence #2. Trump Seeks to Have
McGahn Dispute the Press Reports

NARRATOR (cont'd)

January 26, 2018 Trump's personal
attorney calls McGahn's attorney

TRUMP'S PERSONAL COUNSEL AND MCGAHN'S ATTORNEY ON PHONES
STEP FORWARD

TRUMP'S PERSONAL COUNSEL
Trump wants McGahn to put out a
statement denying that he had been
asked to fire the Special Counsel and
that he had threatened to quit in
protest.

NARRATOR
After call McGahn's attorney tells
McGahn ...

MCGAHN'S ATTORNEY AND MCGAHN STEP FORWARD

MCGAHN'S ATTORNEY
This is what has been requested by
Trump's personal attorney.

NARRATOR
McGahn's Attorney responds to
Trump's personal attorney

MCGAHN'S ATTORNEY AND TRUMP'S PERSONAL ATTORNEY STEP FORWARD

MCGAHN'S ATTORNEY
McGahn will not make a statement. The
Times story is accurate in reporting
that Trump wanted the Special Counsel
removed. Although the article is
inaccurate in some other respects,
McGahn cannot comply with Trump's
request to dispute the story.

NARRATOR
White House Communications Director
Hope Hicks talks to Trump

HICKS AND TRUMP STEP FORWARD

HICKS
One of your attorneys has spoken to
McGahn's attorney about requesting
McGahn's denial.

NARRATOR
January 26, 2018 - Trump talks to
Press Secretary Sarah Hucklebee
Sanders

TRUMP AND SANDERS STEP FORWARD

TRUMP
Contact McGahn about the story.

NARRATOR
later Sanders talks to McGahn

SANDERS AND MCGAHN STEP FORWARD

SANDERS
Trump wants you to respond to the
Times story.

MCGAHN
There is no need to respond. Some of
the article is accurate.

MCGAHN (cont'd)
(to himself)
I see no reason to correct the Times
story.

NARRATOR
February 4, 2018 Priebus goes on Meet
the Press TV show

PRIEBUS AND MEET THE PRESS HOST STEP FORWARD

PRIEBUS
I have never heard that the President
wants the Special Counsel fired.

NARRATOR
After Priebus's appearance, Priebus
talks to Trump

TRUMP AND PRIEBUS ON PHONES STEP FORWARD

TRUMP
You did a great job on Meet the
Press. I have never said any of those
things about the Special Counsel.

NARRATOR

The next day, on February 5, 2018
Trump and White House Staff Secretary
Robert Porter discuss the situation

TRUMP AND PORTER STEP FORWARD

TRUMP

The Times article is bullshit. I have
not sought to terminate the Special
Counsel. McGahn leaked it to the
media to make himself look good. Tell
McGahn to create a record to make
clear that I never directed McGahn to
fire the Special Counsel.

PORTER

Shouldn't this matter be handled by
the White House communications
office?

TRUMP

I want McGahn to write a letter to
the file "for our records. I want
something beyond a press statement to
demonstrate that the reporting is
inaccurate. McGahn is a lying
bastard. I want a record from him. If
he doesn't write a letter, then maybe
I'll have to get rid of him.

NARRATOR

Later that day Porter talks to McGahn

PORTER AND MCGAHN STEP FORWARD

PORTER

Trump says you have to write a letter
to dispute that you were ever ordered
to terminate the Special Counsel.

MCGAHN

The media reports are true. Trump was
insistent on firing the Special
Counsel and I did plan to resign
rather than carry out the order,
although I did not personally tell
Trump I intended to quit.

PORTER

Trump suggested that you will be fired if you do not write the letter.

MCGAHN

The optics will be terrible if Trump followed through with firing me on that basis. I will not write the letter Trump requests.

NARRATOR

Then Porter talks to Kelly

PORTER AND KELLY STEP FORWARD

PORTER

This is what was said in my conversation with McGahn...

NARRATOR

The next day, on February 6, 2018 Kelly schedules a meeting with McGahn to meet with him and Trump in the Oval Office to discuss the Times article.

The morning of the meeting, Trump's personal attorney called McGahn's attorney to say that Trump is going to be speaking with McGahn and McGahn cannot resign no matter what happens in the meeting.

The Oval Office meeting begins.
Trump, White House Chief of Staff
John Kelly and McGahn attending

TRUMP, KELLY, AND MCGAHN STEP FORWARD

TRUMP

(To McGahn)

The New York Times story does not look good. You need to correct it. I never said to fire Mueller. I never said 'fire.' This story doesn't look good. You need to correct this. You're the White House counsel.

MCGAHN

I acknowledged that I did not tell you directly that I planned to resign, but the story is otherwise accurate.

TRUMP

Did I say the word 'fire'?"

MCGAHN

What you said is, 'Call Rod Rosenstein, tell Rod that Mueller has conflicts and can't be the Special Counsel.'

TRUMP

I never said that. I merely wanted you to raise the conflicts issue with Rosenstein and leave it to him to decide what to do.

MCGAHN

I did not understand the conversation that way. Instead I heard, "Call Rod. There are conflicts. Mueller has to go."

TRUMP

Will you do a correction?

MCGAHN

No.

MCGAHN (cont'd)

(to himself)

Trump is testing my mettle to see how committed I am to what happened.

KELLY

(to himself)

The meeting is a little tense.

TRUMP

Why did you tell Special Counsel's Office investigators that I had told you to have the Special Counsel removed?

MCGAHN

I had to. My conversations with you are not protected by attorney-client privilege.

TRUMP

What-about these notes? Why do you take notes? Lawyers don't take notes. I never had a lawyer who took notes.

MCGAHN

I keep notes because I am a real lawyer. The notes create a record and are not a bad thing.

TRUMP

I've had a lot of great lawyers, like Roy Cohn. He did not take notes.

NARRATOR

After the Oval Office meeting concluded McGahn and Kelly talk

MCGAHN AND KELLY STEP FORWARD

MCGAHN

Trump and I did have that conversation about removing the Special Counsel.

KELLY

I have pointed out to Trump after our Oval Office meeting that you had not backed down and will not budge.

NARRATOR

Following the Oval Office meeting Trump's personal attorney calls McGahn's attorney.

TRUMP'S PERSONAL COUNSEL AND MCGAHN'S COUNSEL ON PHONES STEP FORWARD

TRUMP'S PERSONAL COUNSEL

Trump is fine with McGahn.

NARRATOR

NARRATOR (cont'd)

Pages 118 to 120 of Volume II of the Mueller report outlines the relevance of the evidence presented in Act 8 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.

The report states that substantial evidence indicates that in Trump's repeatedly urging of McGahn to dispute that he was ordered to have the Special Counsel Mueller terminated, the President acted for the purpose of influencing McGahn's account in order to deflect or prevent further scrutiny of the President's conduct towards the investigation.

Several facts support that conclusion. The President made repeated attempts to get McGahn to change his story. As described above, by the time of the last attempt, the evidence suggests that the President had been told on multiple occasions that McGahn believed the President had ordered him to have the Special Counsel terminated. McGahn interpreted his encounter with the President in the Oval Office as an attempt to test his mettle and see how committed he was to his memory of what had occurred. The President had already laid the groundwork for pressing McGahn to alter his account by telling Porter that it might be necessary to fire McGahn if he did not deny the story, and Porter relayed that statement to McGahn.

(MORE)

NARRATOR (cont'd)

Additional evidence of the President's intent may be gleaned from the fact that his counsel was sufficiently alarmed by the prospect of the President's meeting with McGahn that he called McGahn's counsel and said that McGahn could not resign no matter what happened in the Oval Office that day. The President's counsel was well aware of McGahn's resolve not to issue what he believed to be a false account of events despite the President's request.

Finally, as noted above, Trump brought up the Special Counsel investigation in his Oval Office meeting with McGahn and criticized him for telling the Special Counsel about the June 17, 2017 events. The President's statements reflect his understanding-and his displeasure-that those events would be part of an obstruction-of-justice inquiry.

End of Act 8

Disclaimer. While The Play interprets Mueller's report to provide an active dialogue of its contents, you should read the Mueller report to develop your own interpretation of its findings.

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