

## Politics

# Trump Lawyers Clash Over How Much to Cooperate With Russia Inquiry



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Donald F. McGahn II, center, the White House counsel, during a swearing-in ceremony for White House staff in January. He has expressed caution about limiting the president's ability to assert executive privilege as the Russia investigation proceeds.

AL DRAGO / THE NEW YORK TIMES

By PETER BAKER and KENNETH P. VOGEL

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WASHINGTON — [President Trump](#)'s legal team is wrestling with how much to cooperate with the special counsel looking into Russian election interference, an internal debate that led to an angry confrontation last week between two White House lawyers and that could shape the course of the investigation.

At the heart of the clash is an issue that has challenged multiple presidents during high-stakes Washington investigations: how to handle the demands of investigators without surrendering the institutional prerogatives of the office of the

presidency. Similar conflicts during the Watergate and Monica S. Lewinsky scandals resulted in court rulings that limited a president's right to confidentiality.

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

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

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The friction escalated in recent days after Mr. Cobb was overheard by a reporter for The New York Times discussing the dispute during a lunchtime conversation at a popular Washington steakhouse. Mr. Cobb was heard talking about a White House lawyer he deemed “a McGahn spy” and saying Mr. McGahn had “a couple documents locked in a safe” that he seemed to suggest he wanted access to. He also mentioned a colleague whom he blamed for “some of these earlier leaks,” and who he said “tried to push Jared out,” meaning Jared Kushner, the president's son-in-law and senior adviser, who has been a previous source of dispute for the legal team.

After The Times contacted the White House about the situation, Mr. McGahn privately erupted at Mr. Cobb, according to people informed about the confrontation who asked not to be named describing internal matters. John F. Kelly, the White House chief of staff, sharply reprimanded Mr. Cobb for his indiscretion, the people said.

Mr. Cobb sought to defuse the conflict in an interview over the weekend, praising Mr. McGahn as a superb lawyer. “He has been very helpful to me, and whenever we have differences of opinion, we have been able to work them out professionally and reach consensus,” Mr. Cobb said. “We have different roles. He has a much fuller plate. But we're both devoted to this White House and getting as much done on behalf of the presidency as possible.”

The special counsel, [Robert S. Mueller III](#), is investigating connections between Russia and Mr. Trump and his associates, including whether they conspired to influence last year's election. Mr. Mueller is also looking into whether Mr. Trump's [decision to fire](#) James B. Comey, the [F.B.I.](#) director initially leading the

investigation, constitutes obstruction of justice. He has asked the White House for emails and documents related to these matters, and Mr. Cobb has organized the requests into 13 categories, but officials would not describe them in more detail. So far, officials said the White House has not turned down any request.

Mr. Trump's aides said they were scrambling to respond to the requests to avoid a subpoena that might make it look as if the White House was not cooperating. Mr. Cobb hoped to turn over a trove of documents this week, according to people close to the legal team.

Mr. Cobb argues that the best strategy is to be as forthcoming as possible, even erring on the side of inclusion when it comes to producing documents, because he maintains the evidence will show Mr. Trump did nothing wrong. Mr. McGahn has told colleagues that he is concerned that Mr. Cobb's liberal approach could limit any later assertion of executive privilege. He has also blamed Mr. Cobb for the slow collection of documents.

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

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

During the 1998 investigation into whether President [Bill Clinton](#) committed perjury and obstruction of justice to cover up an affair with Ms. Lewinsky, an appeals court ruled that government lawyers do not enjoy the same attorney-client privilege as private lawyers and that prosecutors in some circumstances can compel a White House lawyer to testify.



Ty Cobb, whom the White House brought in to manage the response to the Russia investigation, has argued for turning over as many of the emails and documents requested by the special counsel as possible.

JERRY CLEVELAND / THE DENVER POST, VIA GETTY IMAGE

Mr. Trump's legal team has been a caldron of rivalry and intrigue since the beginning. His first private lawyer, Marc E. Kasowitz, grew alienated from the White House in part over friction with Mr. Kushner. The lawyer was unhappy that Mr. Kushner was talking with his father-in-law about the investigation without involving the legal team.

At one point, the private lawyers explored whether [Mr. Kushner should resign](#) because he was involved in the investigation, The Wall Street Journal reported. People close to the situation confirmed that talking points were drawn up to explain such a resignation, although it was not clear how directly the issue was raised with Mr. Trump.

Mr. Kasowitz was eventually pushed to the side, and [Mr. Trump elevated John Dowd](#), a Washington lawyer with extensive experience in high-profile political cases, to take the lead as his personal lawyer. At the same time, Mr. Trump decided he needed someone inside the White House to manage the official response since Mr. McGahn, whose professional experience is mostly in election law, already handles a vast array of issues from executive orders to judicial appointments.

Mr. McGahn's first choices turned down the job, in part out of concern that Mr. Trump would not follow legal advice. Eventually, Mr. Dowd introduced Mr. Trump to Mr. Cobb, another veteran Washington lawyer known for his high energy and expansive, curly mustache, and he was [tapped as special counsel](#) to the president, much to Mr. McGahn's chagrin.

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Tension between the two comes as life in the White House is shadowed by the investigation. Not only do Mr. Trump, Mr. Kushner and Mr. McGahn all have lawyers, but so do other senior officials. The uncertainty has grown to the point that White House officials privately express fear that colleagues may be wearing a wire to surreptitiously record conversations for Mr. Mueller.

Admirers said Mr. Cobb has developed a rapport with the president and does not report to Mr. McGahn, who they believe feels insecure about his place in Mr. Trump's orbit. Mr. McGahn's supporters argue that Mr. Cobb is wildly over-optimistic to think he can steer the investigation away from the president, given that Mr. Mueller has now hired 17 prosecutors.

The suspicion within the legal team seemed evident in the lunch conversation Mr. Cobb had last week with Mr. Dowd at BLT Steak, not far from the White House and a few doors down from The Times's office. A reporter who happened to be at the next table heard Mr. Cobb describing varying views of how to respond to Mr. Mueller's requests for documents.

"The White House counsel's office is being very conservative with this stuff," Mr. Cobb told Mr. Dowd. "Our view is we're not hiding anything." Referring to Mr. McGahn, he added, "He's got a couple documents locked in a safe."

Mr. Cobb expressed concern about another White House lawyer he did not name. "I've got some reservations about one of them," Mr. Cobb said. "I think he's like a McGahn spy."

While Mr. Cobb advocated turning over documents to Mr. Mueller, he seemed sensitive to the argument that they should not necessarily be provided to congressional committees investigating the Russia matter. "If we give it to Mueller, there is no reason for it to ever get to the Hill," he said.

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Mr. Cobb also discussed the June 2016 Trump Tower meeting — and the White House's response to it — saying that "there was no perception that there was an exchange."

In the interview over the weekend, Mr. Cobb emphasized respect for Mr. McGahn. "Don McGahn is an exceptional professional," he said. "He's done a superior job of



building and managing a White House counsel's office that deals with a wide variety of issues effectively every day. He works hard and is highly regarded, and his lawyering skills are excellent."

Mr. Cobb acknowledged that the two approach the investigation from different perspectives. His role, he said, was "working as hard as I can every day to assist and fully cooperate with the special counsel's office, and that cooperation is ongoing at a substantial pace."

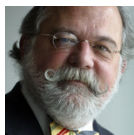
Contacted separately, Mr. Dowd emphasized that the lunch conversation was not critical of Mr. McGahn. "Don McGahn is doing a terrific job and our needs are an extra load," he said in an email. "We understand and respect the time it has taken to gather the material and review it. Nothing we said reflected adversely upon Don McGahn."

He said tension over how to respond to document requests was normal. "Assertions of privilege are the exception to the rule that the law is entitled to every man's evidence, and in this instance it is critical in our judgment that the president be fully transparent with the special counsel in this inquiry," Mr. Dowd said. "All this is getting worked out in a professional manner."

Michael S. Schmidt, Julie Hirschfeld Davis and Matt Apuzzo contributed to this report.

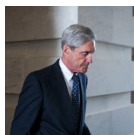
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