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Did Trump's tweet about Michael Flynn's guilty plea just admit something it shouldn't have?

By **Aaron Blake** December 2 at 4:31 PM

Update: The Post is now reporting that the tweet was authored by Trump's personal lawyer, John Dowd, according to two people familiar with the situation. The fact that Dowd authored the tweet could limit its salience to the investigation, but the White House still hasn't publicly corrected anything.

A little more than 24 hours after Michael Flynn pleaded guilty to lying to the FBI, President Trump finally took to Twitter to offer his thoughts. He may wish he hadn't.

In his first tweet on the subject since Flynn's plea, Trump argued that Flynn had no reason to lie about his actions because they weren't unlawful. But it's the first part of the tweet that caught plenty of people's attention.

"I had to fire General Flynn because he lied to the Vice President and the FBI," Trump began.

Except when Trump fired Flynn on Feb. 13, he mentioned only Flynn's comments to Vice President Pence -- not the FBI. In fact, Flynn's contradictory comments to the FBI on his meeting with the Russian ambassador weren't public knowledge at the time. And the current timeline as we understand it does not suggest the White House had direct knowledge of what Flynn told the FBI at the time.

Flynn's comments to the FBI didn't come into the public domain until three days after his dismissal, on Feb. 16, when The Washington Post's Sari Horwitz and Adam Entous reported that Flynn had wrongly denied discussing sanctions with the Russian ambassador:

Former national security adviser Michael Flynn denied to FBI agents in an interview last month that he had discussed U.S. sanctions against Russia with that country's ambassador to the United States before President Trump took office, contradicting the contents of intercepted communications collected by intelligence agencies, current and former U.S. officials said.

The Jan. 24 interview potentially puts Flynn in legal jeopardy. Lying to the FBI is a felony offense. But several officials said it is unclear whether prosecutors would attempt to bring a case, in part because Flynn may parse the definition of the word “sanctions.”

Some see a problematic admission in Trump's tweet on Saturday -- possibly even something that could be construed as an admission to obstruction of justice. Here's why:

The day after Trump fired Flynn, on Feb. 14, Trump urged then-FBI Director James B. Comey to be lenient with Flynn, according to Comey's notes at the time, saying, "I hope you can let this go." If Trump knew at that time that Flynn had lied to the FBI and was under investigation, the argument goes, it may constitute an attempt to obstruct that investigation.

Walter Shaub, the former head of the U.S. Office of Government Ethics, suggested the tweet could prove a major misstep for the president and even that it might have cost any other president his job.

Others agreed, including Lawfare Executive Editor Susan Hennessey, who said Trump's tweet amounted to a "confession to essential knowledge elements of an obstruction of justice charge."

Still, at the time it likely wasn't difficult for Trump and the White House to have surmised that Flynn had been under investigation. Acting Attorney General Sally Yates had told White House counsel Don McGahn on Jan. 26 — two days after Flynn's FBI interview — that Flynn had discussed sanctions on his phone calls with the Russian ambassador. This was contrary to what Flynn had told Pence and opened Flynn up to blackmail, Yates told McGahn.

Yates has said she told McGahn that Flynn had been interviewed by the FBI, but she says she did not characterize for McGahn what Flynn had told the FBI.

“We also told the White House counsel that General Flynn had been interviewed by the FBI on [January] 24,” Yates said in congressional testimony on May 8. “Mr. McGahn asked me how he did, and I declined to give him an answer to that. And we then walked through with Mr. McGahn essentially why we were telling them about this and the first thing we did was to explain to Mr. McGahn that the underlying conduct that General Flynn had engaged in was problematic in and of itself. Secondly, we told him we felt like the vice president and others were entitled to know that the information that they were conveying to the American people wasn’t true.”

So Yates didn't clearly state to McGahn that Flynn had misled the FBI or that he was under investigation, but given the content of their conversation — including talking about Flynn's intercepted communications — it wouldn't have been difficult to come to that conclusion. And if McGahn told Trump about the conversation with Yates, it's likely Trump believed Flynn was in legal jeopardy when he spoke to Comey on Feb. 14.

It's also possible Trump merely misremembered the timeline of what he knew when as he fired off his tweet on Saturday. But either way, it doesn't change the fact that he just tweeted something he may regret.

Update: Dowd says, "The tweet just paraphrases what [White House lawyer] Ty Cobb issued yesterday. I refer you to Comey's testimony about Flynn's answers. I have nothing further."

But Cobb's comments Friday didn't address the timeline like Trump's tweet does. Cobb merely said Friday that the "false statements involved mirror the false statements to White House officials which resulted in his resignation in February of this year."

Carol D. Leonnig contributed to this report.

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