

The New York Times

Image of Cooperation Between White House and Mueller Starts to Fracture



As the special counsel, Robert S. Mueller III, has helped produce a series of indictments and guilty pleas, Republicans have increased their attacks on him, saying his investigation is being run by partisans. Alex Wong/Getty Images

By Michael S. Schmidt (<http://www.nytimes.com/by/michael-s-schmidt>) Dec. 17, 2017

WASHINGTON — For much of the seven months since Robert S. Mueller III was appointed special counsel, President Trump’s lawyers have stressed their cooperation with him, believing that the more they work with his investigation, the sooner the president will have his name cleared.

But in recent weeks, as the investigation has reached deeper into Mr. Trump’s inner circle, that image of cooperation has begun to fracture. Mr. Trump’s lawyers and supporters have significantly increased their attacks (<https://www.nytimes.com/2017/12/13/us/politics/trump-mueller-russia-republican-campaign.html>) on Mr. Mueller, especially as the F.B.I. has handed them fresh ammunition to claim that the agents investigating the president may be biased.

The latest salvos came over the weekend, when a top Republican senator said Mr. Mueller should examine his team's political leanings, and a lawyer for Mr. Trump sent a letter to lawmakers saying that the special counsel had improperly gotten emails from the presidential transition team.

"Not looking good, it's not looking good — it's quite sad to see that, my people were very upset about it," Mr. Trump said on Sunday when asked about the emails. "I can't imagine there's anything on them, frankly, because, as we've said, there's no collusion, no collusion whatsoever."

While Mr. Trump also said he was not considering firing Mr. Mueller, the mounting attacks have fueled concerns among Democrats that he is preparing to do so. Eric H. Holder Jr., President Barack Obama's first attorney general, said on Twitter (<https://twitter.com/EricHolder/status/942481938165747712>) on Sunday that any such move would be an "ABSOLUTE RED LINE."

Legal experts said there was no indication that Mr. Mueller, who has wide power to obtain documents through written requests, subpoenas and search warrants, improperly obtained the transition emails. But amid the barrage of criticism, Mr. Mueller's office issued a rare statement on Sunday defending how the information had been obtained during the inquiry into Russian election meddling.

"When we have obtained emails in the course of our ongoing criminal investigation, we have secured either the account owner's consent or appropriate criminal process," said Peter Carr, a spokesman for the special counsel's office.

A lawyer for Mr. Trump said in a letter to Congress on Saturday that the General Services Administration, the government agency that had the transition team's emails, had handed them over to Mr. Mueller's investigators in August without allowing transition team lawyers to review them. The documents, the lawyer argued, should have been shielded by various privileges, like attorney-client privilege.

The materials, said the lawyer, Kory Langhofer, were the property of the transition team, and therefore it should have had the chance to decide what was given to investigators.

The letter came days after the Justice Department took the unusual step of releasing to the news media anti-Trump text messages (<https://www.nytimes.com/2017/12/12/us/fbi-trump-russia.html>) that an agent

overseeing the investigation had sent to a colleague. Although Mr. Mueller had moved quickly this past summer to remove the agent from the inquiry, Republicans seized on the disclosure to criticize Mr. Mueller and the F.B.I.

One Trump adviser, Kellyanne Conway, said it was evidence that “the fix was in against Donald Trump from the beginning.”

White House officials sought to play down the significance of the letter about the transition emails, insisting it was an issue for the transition team, not the West Wing. They said the president had not changed his approach to cooperating with the special counsel, and that he had not discussed dismissing Mr. Mueller.

“We have been cooperative and transparent with the special counsel’s office and will continue to be — we look forward to an expeditious conclusion to this matter,” said Jay Sekulow, a lawyer for Mr. Trump.

Still, the letter to Congress from Mr. Langhofer sounded a discordant note. His assertion that the emails were privileged and should have been shielded stood in contrast to the stance of White House officials, who said that Mr. Trump’s lawyers had not invoked any such privilege on any White House documents that Mr. Mueller had requested.

Among the materials obtained from the transition team by Mr. Mueller were emails, laptops and cellphones for nine members who worked on national security and policy matters, according to the letter. Mr. Mueller’s investigators have used the documents during interviews with transition team officials when questioning them about calls between Mr. Trump’s former national security adviser, Michael T. Flynn, and the Russian ambassador in which they discussed American sanctions.

One of the emails shows that (<https://www.nytimes.com/2017/12/02/us/russia-mcfarland-flynn-trump-emails.html>) several transition officials were aware that Mr. Flynn was going to be speaking with the ambassador on Dec. 29 after the Obama administration had imposed new sanctions on Russia for its election meddling. Mr. Flynn pleaded guilty this month to lying to the F.B.I. about his interactions with the Russian official.

“The materials produced by the G.S.A. to the special counsel’s office therefore included materials protected by the attorney-client privilege, the deliberative process privilege, and the presidential communications privilege,” Mr. Langhofer,

the counsel to Trump for America, said in his letter, which was sent to the top Republican and Democrat on the Senate and House oversight committees.

Over the summer, Mr. Trump publicly dangled the possibility of firing Mr. Mueller, stoking concerns among some of his advisers who believed that Mr. Trump would further imperil his presidency if he did so.

But two people who have spoken to the president recently said that he was far more frustrated with the attorney general, Jeff Sessions, and the F.B.I. director, Christopher A. Wray, than Mr. Mueller. Mr. Trump has said that Mr. Wray has not moved quickly enough to rid the bureau of senior officials who were biased against Mr. Trump and had worked for James B. Comey, the director whom Mr. Trump fired in May.

Mr. Trump's lawyers assured the president throughout the fall that Mr. Mueller's investigation would be over by the end of the year. But on Dec. 1, Mr. Flynn entered his guilty plea and agreed to cooperate with Mr. Mueller's investigation, an indication that the inquiry will not soon close.

Two weeks ago, The New York Times reported (<https://www.nytimes.com/2017/12/02/us/politics/mueller-removed-top-fbi-agent-over-possible-anti-trump-texts.html>) that Mr. Mueller had removed one of the top agents working on the investigation, Peter Strzok, after the discovery of text messages between him and a colleague in which they described the possibility of an election victory by Mr. Trump as "terrifying" and said that Hillary Clinton "just has to win."

Republicans have seized on Mr. Strzok's text messages, saying that they were the clearest evidence that the F.B.I. had been out to get Mr. Trump and that Mr. Mueller's investigation was filled with partisans. Along with attacking Mr. Strzok, Republicans have said that one of Mr. Mueller's top prosecutors, Andrew Weissmann, may also be biased against Mr. Trump because he commended the acting attorney general in a January email for not enforcing Mr. Trump's travel ban.

Senator John Cornyn, Republican of Texas, praised Mr. Mueller in an interview on ABC's "This Week" (<http://abcnews.go.com/Politics/week-transcript-12-17-17-sen-john-cornyn/story?id=51834652>) on Sunday for removing Mr. Strzok but said "there are others" whom Mr. Mueller needs to examine.

“There are plenty of F.B.I. agents and prosecutors who have not been politically involved on behalf of Democrats or overtly critical of the president that can serve in this important investigation,” Mr. Cornyn said.

He added: “So I have confidence in Director Mueller. I would just think he would be concerned about the appearance of conflicts of interest that would undermine the integrity of the investigation.”

Maggie Haberman contributed reporting from New York, and Noah Weiland from Washington.

A version of this article appears in print on December 18, 2017, on Page A1 of the New York edition with the headline: Friction Rises Between Mueller’s Team and Some Trump Lawyers. Order Reprints (<http://www.nytreprints.com/>) | Today’s Paper (<http://www.nytimes.com/pages/todayspaper/index.html>) | Subscribe (<https://www.nytimes.com/subscriptions/Multiproduct/lp8HYKU.html?campaignId=48JQY>)

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National Security Plan Hints at Return to Cold War Footing

President Trump's first national security strategy envisions rivalries with China and Russia.

It is at odds with his often-warm relations with the leaders of those two countries.

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E.P.A. Employees Spoke Out. Then Came Scrutiny of Their Email.

Staff members who have voiced concern have then had their emails scanned for references to President Trump or the agency's director, records show.

"This is a witch hunt against E.P.A. employees," said Gary Morton, who works for the E.P.A. in Philadelphia.

(<https://www.nytimes.com/2017/12/17/us/politics/epa-pruitt-media-monitoring.html?action=click&module=MoreInSection&pgtype=Article®ion=Footer&contentCollection=Politics>)

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