

EXHIBIT 5

[REDACTED]

FBI COUNTERINTELLIGENCE INVESTIGATIONS

Thursday, March 2, 2017

U.S. House of Representatives,
Permanent Select Committee on Intelligence,
Washington, D.C.

The committee met, pursuant to call, at 9:20 a.m., in Room HVC-304, the Capitol, the Honorable Devin Nunes [chairman of the committee] presiding.

Present: Representatives Nunes, Conaway, King, LoBiondo, Rooney, Ros-Lehtinen, Turner, Wenstrup, Stewart, Crawford, Gowdy, Stefanik, Hurd, Schiff, Himes, Sewell, Carson, Speier, Quigley, Swalwell, Castro, and Heck.

Also Present: Representative Calvert.

Staff Present: Nick Ciarlante, Chief Clerk; William

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[REDACTED]

Flanigan, Professional Staff Member; Scott Glabe, Deputy General Counsel; Lisa Major, Professional Staff Member; Damon Nelson, Staff Director; George Pappas, Senior Advisor; Shannon Stuart, Budget Director; Mark Stewart, General Counsel; Michael Bahar, Minority Staff Director; Wells Bennett, Minority Counsel; Timothy Bergreen, Minority Deputy Staff Director; Carly Blake, Minority Budget Director; Linda Cohen, Professional Staff Member - Minority; Thomas Eager, Associate Professional Staff Member - Minority; Robert Minehart, Minority Senior Advisor; Amanda Rogers-Thorpe, Professional Staff Member - Minority; Rheanne Wirkkala, Professional Staff Member - Minority; Kristin Jepson, Security Director; Jeff Dressler, National Security Advisor for the Speaker; and Wyndee Parker, Senior Policy Advisor for the Minority Leader.

[REDACTED]

[REDACTED]

So when the President announced -- that is the completion of the [REDACTED] calls. When the President announced that the United States Government was going to expel Russian diplomats and take the actions to close and to impose sanctions on some of the intelligence leadership in Russia, we obviously were covering very, very closely to see what reaction we would get from the Russians; what are they going to do? So our analysts were watching [REDACTED] all over the country on the Russians. And so we -- they saw this much more quickly than we normally would, and [REDACTED]

[REDACTED]

And then the Intelligence Community, including the FBI, was surprised when the Russians did nothing in response to the expulsion. One of the reasons we were [REDACTED] was to see, how far will they go in retaliating to us, and then what will we do?

And so the last couple days of December and the first couple days of January, all the Intelligence Community was trying to figure out, so what is going on here? Why is this -- why have the Russians reacted the way they did, which confused us? And so we were all tasked to find out, do you have anything [REDACTED] that might reflect on this? That turned up these calls at the end of December, beginning of January. And then I briefed it to the Director of National Intelligence, and Director Clapper asked me for copies [REDACTED], which I shared with him.

[REDACTED]

[REDACTED]

In the first week of January, he briefed the President and the Vice President and then President Obama's senior team about what we had found and what we had seen to help them understand why the Russians were reacting the way they did.

We did not disseminate this [REDACTED] in any finished intelligence, although our people judged was appropriate, for reasons that I hope are obvious, to have Mr. Flynn's name unmasked. We kept this very close hold, and it was shared just as I described.

I had not briefed the Department of Justice about this, and found myself at the Oval Office on the 5th of January to brief the President on the separate effort that you all are aware of by the Intelligence Community to report on what the Russians had done during the election. And in the course of that conversation, the President mentioned this [REDACTED]. And that was the first time the Acting Attorney General, Sally Yates, had heard about it. So, immediately after that, I briefed her about what it was. That was on the 6th of January. So that is the first week of January.

Nothing, to my mind, happens until the 13th of January, when David Ignatius publishes a column that contains a reference to communications Michael Flynn had with the Russians. That was on the 13th of January.

And then 2 days later -- I think it is Sunday the 15th of January -- the Vice President is on the Sunday morning shows and says that Flynn had communications with the Russians, but it was

[REDACTED]

[REDACTED]

about essentially nothing about sanctions, or nothing substantive. It was about expressing condolences and -- and I forget what else he said at that point. So that is the 15th of January.

So that begins the last week of the Obama administration. And during that week, the then Acting Attorney General was urging me to tell the White House that the Vice President's statements are inaccurate and to give them a heads-up that the statements that he had made to the public were inconsistent with what we knew

[REDACTED] And I resisted that, for two reasons. The first and most important reason is I worried it would step on our investigative equities. Our investigative team wanted to consider, so what else should we do with respect to Mr. Flynn?

And I should have said this at the beginning. At that point, we had an open counterintelligence investigation on Mr. Flynn, and it had been open since the summertime, and we were very close to closing it. In fact, I had -- I think I had authorized it to be closed at the end of January, beginning -- excuse me, end of December, beginning of January. And we kept it open once we became aware of these communications. And there were additional steps the investigators wanted to consider, and if we were to give a heads-up to anybody at the White House, it might step on our ability to take those steps.

And, second, even if that hadn't been the case, I don't think the FBI's job is to give prudential heads-ups. And if the leadership of the Department of Justice wanted to do that, that

[REDACTED]

[REDACTED]

was certainly fine for them to do, but I didn't think it was something that I should do.

And then the DNI and the Director of Central Intelligence Agency, so Mr. Clapper and Mr. Brennan, both approached me on the 19th, the last evening of the Obama administration, and asked me whether I was going to tell them about what I knew about Mr. Flynn before they took office, and I said that I was not, given our investigative equities, and the conversation ended there.

The administration takes office on the 20th, obviously. On the 24th, I directed agents to go to the White House to interview Mr. Flynn and had the Deputy Director call Mr. Flynn and say: We want to send over a couple agents to interview you. Are you willing to talk to them?

And he said: Sure. Send them over. I will talk to them right now.

And we sent two of our most experienced counterintelligence investigators over to the White House. I did not tell the Department of Justice that I was taking that step until after I had taken the step. And two experienced agents went over and met Mr. Flynn alone.

The Deputy Director said: If you want to have somebody else there, that is fine.

He said: I will meet with them alone.

And he met with the two agents and was interviewed in his office in the West Wing and said essentially what the Vice

[REDACTED]

[REDACTED]

President had said on television, which is: I didn't talk to the Russians about their expulsion of diplomats. I didn't talk to the Russians about their -- the sanctions. I didn't talk about that at all.

And then the agents, obviously being experienced agents, start interviewing him, and not -- they didn't show him the transcripts, but they started using in their questions words that were taken directly from the transcripts: Well, did you say this, and did you say that, and did you say this?

And he obviously began to pick up that they had something else that was underlying their questions, and he said: Look, it is possible. I am guessing you guys [REDACTED] the Russians, but -- he said: I don't remember talking about that. I was in the Dominican Republic. I didn't get his text because I had bad coverage there. I called him back. And I don't remember talking to him about this. And I am sorry, but I didn't -- he said: My recollection is I did not talk to him about that.

And the agents -- and the reason I mention their experience is because I talked to them about this -- they discerned no physical indications of deception. They didn't see any change in posture, in tone, in inflection, in eye contact. They saw nothing that indicated to them that he knew he was lying to them.

And they interviewed him completely, went through it all, did not show him the transcript, [REDACTED] or transcripts, and then came back and drafted a 302 and reported to me and the Deputy

[REDACTED]

[REDACTED]

Director.

And I then briefed the White House on the contents of what Mr. Flynn had said. That is the 24th of January.

The 26th of January, the Acting Attorney General went over to the White House with a career senior official from the National Security Division and met with the White House Counsel and briefed him on what we had learned [REDACTED] and what we had learned from the Flynn interview. And then they went back the next day and continued that conversation and offered to make available the transcripts [REDACTED] to the White House.

The White House assigned a lawyer named John Eisenberg, who works for the White House Counsel, and he came over to the FBI shortly thereafter and reviewed the transcripts of the Flynn - [REDACTED]

[REDACTED]

And then, on the 10th of February, the FBI carried the transcripts -- two of our folks carried the transcripts over to the White House and reviewed them with White House Counsel and, I believe, the Vice President. And on the 13th of February, Mr. Flynn resigned.

So that is the chronology [REDACTED], our review of it, and then our investigative steps.

Now, there is still, obviously, an open investigation of Mr. Flynn that is criminal in nature. So I am not going to go

[REDACTED]

[REDACTED]

MR. ROONEY: Okay. Thank you.

I yield back.

THE CHAIRMAN: Okay. Mr. Carson is not here. Ms. Speier.

MS. SPEIER: Thank you, Mr. Chairman.

Thank you, Mr. Comey. Do you believe that Mr. Flynn lied?

MR. COMEY: I don't know. I think there is an argument to be made that he lied. It is a close one.

MS. SPEIER: So the fact that he actively was asking the Russians, through the Ambassador, to vote against the United States at the U.N. with regard to Israeli settlements, have you looked further into that issue? Because that clearly involves a private citizen conducting foreign policy.

MR. COMEY: We haven't besides obviously analyzing [REDACTED] [REDACTED] and interviewing him. That is one of the questions for the Department of Justice, is do you want further investigation. That would be the Logan Act angle, not the false statements to Federal agents angle.

MS. SPEIER: So you have not pursued that inquiry, though?

MR. COMEY: Not beyond what I have described here.

MS. SPEIER: Are you going to?

MR. COMEY: Not unless we get the Department of Justice directing us to, if they need some information to be able to evaluate Mr. Flynn. Like I said, I doubt it honestly because of the nature of the Logan Act as such. Again, I am not an expert, but I don't think it is something prosecutors have used. But it

[REDACTED]

[REDACTED]

is possible. That is one of the reasons we sent it over to them, saying look, here is this old statute. Do you want us to do further investigation?

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MR. TURNER: When your agents went to go speak to Mr. Flynn,

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[REDACTED]

and questioned him about the conversation, you already knew the contents of the conversation. You had the transcript and the agents had access to the transcript.

MR. COMEY: Correct.

MR. TURNER: So you couldn't have sent agents to Mr. Flynn for the purposes of questioning him about the content of the conversation because you already knew what the content was. Correct?

MR. COMEY: Right. Our purpose --

MR. TURNER: Right. You had a transcript, so there was no question. So right. Thank you.

So what was the purpose of the questioning? If it wasn't to ascertain what happened in the phone conversation, of which the contents you knew, what was the purpose to ask him these questions about what happened in the conversation?

MR. COMEY: To find out whether there was something we were missing about his relationship with the Russians and whether he would -- because we had this disconnect publicly between what the Vice President was saying and what we knew. And so before we closed an investigation of Flynn, I wanted them to sit before him and say what is the deal?

MR. TURNER: By publicly, you mean statements that were made in the press.

MR. COMEY: Right. That the Vice President made on TV.

MR. TURNER: Right. Okay. But you have also made statements

[REDACTED]

[REDACTED]

business or government relationships, with Russia. Is that correct?

MR. COMEY: Well the context was there was an open counterintelligence investigation that had been open for months, trying to figure out is there some sort of covert relationship between Mr. Flynn and the Russian Government. And then when Mr. Flynn has a communication [REDACTED] with the Russian Ambassador, and that it appears -- again, from what we can see from the outside -- that he for some reason hasn't been candid with the Vice President about this, my judgment was we could not close the investigation of Mr. Flynn without asking him what is the deal here. That was the purpose.

MR. SWALWELL: And do you agree with Ms. Yates's evaluation that that made him blackmailable?

MR. COMEY: Possible. That struck me as a bit of a reach, though, honestly.

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