ATTACHMENT 1
SIDNEY POWELL, P.C.

Federal Appeals in Complex Commercial Litigation

June 6, 2019

The Honorable William Barr
Attorney General

The Honorable Jeffrey Rosen
Deputy Attorney General

United States Department of Justice
950 Pennsylvania Avenue N.W.
Washington, DC 20530

Re: Internal review, Brady, IG Report, Declassification, and Lt. General Michael Flynn (retired)

Dear Attorney General Barr and Deputy Attorney General Rosen:

I write on behalf of Lt. General (Retired) Michael Flynn, and as a former Assistant United States Attorney of ten-years-service under nine United States Attorneys from both political parties, as a lawyer dedicated to the rule of law, and a firm believer in the mandate of Berger v. United States that the role of the United States is to “seek justice—not convictions.” It is my fervent hope that you and the Department of Justice will use this case to restore integrity and trust in the Department and reinstate clear application of the Rule of Law.

Covington and Burling has moved to withdraw, and I will soon appear on the record on behalf of General Flynn. They are not aware of this communication which I will treat with the utmost confidentiality. My goal is to encourage and allow the Department to address these issues internally for the benefit of all concerned—especially the Department itself. Despite what he and his family have been through, General Flynn firmly believes in our justice system and hopes to be a positive and forceful spokesperson for it in the future.

This letter is a preliminary outreach primarily to provide you with an outline and notice of likely exculpatory information we ask you to watch for as you and your appointed investigators— independent of the SCO—are re-examining the possible corruption of our beloved government institutions for what appears to be political purposes and to suggest a just resolution if the evidence shows what we believe to be true.

Confidential to AG/DAG
To that end, we request:

(i) The appointment of new government counsel with no connection to the Special Counsel team of attorneys or agents to conduct review of the entire Flynn case for Brady material that has not been produced and prosecutorial misconduct writ large.

(ii) A determination of when, how, and on what basis the first investigation of General Flynn began.

(iii) The preservation of all electronic devices issued to anyone by Special Counsel and preservation of their text messages, emails, and any other means of electronic communications.

(iv) A review of currently classified information that we believe to be Brady for declassification, or at a minimum, production to me of a summary of that information.

(v) Interviews of additional witnesses we can identify that the Special Counsel did not interview because they would have created exculpatory information.

(vi) Consideration of the specific targeting of General Flynn and the disparate way in which he was treated as compared to others similarly situated—even by SCO.

(vii) At the end of this internal review, we believe there will be ample justification for the Department to follow the precedent of the Ted Stevens case and move to dismiss the prosecution of General Flynn in the interest of justice—whether it be we ink a simple joint motion or sua sponte by the Department.

Current Status:

General Flynn is from a generational military family. He served this country in the military for more than 33 years—highly decorated—with five of those years in direct combat. His entire life has been devoted to service to this nation. As ingrained in him from childhood, he immediately took responsibility for what the SCO said he did wrong, entered a plea of guilty to one count of 18 U.S.C. §1001, and he has been cooperating fully with SCO—and now the ED VA—well beyond his cooperation agreement. His sentencing was scheduled before Judge Emmet G. Sullivan Jr. on December 18, 2018, pursuant to the plea agreement. The SCO recommended Flynn receive probation.

At the hearing, however, Judge Sullivan launched a tirade, effectively accusing Flynn of working for a foreign power while he was in the White House and committing treason. Judge Sullivan made clear he intends to send him to prison. Judge Sullivan was completely wrong on the facts of the case, and his rant seems to have come straight from MSNBC comments of the previous night. After a short break in the court proceedings, the Judge returned to the bench and made something of a retraction of his most egregious choice of words.

However, severe damage was done. The press ran wild with the treason suggestion unabated for an hour, and it morphed into days of media speculation about General Flynn, the President, the Mueller probe, and treason. Judge Sullivan postponed the sentencing to give Flynn more time to
provide more cooperation in the possibility that might lessen the prison sentence Sullivan strongly suggested he will impose—despite DOJ’s recommendation. He also left open a question as to the materiality of General Flynn’s statements to the FBI Agents. Shortly after the hearing, Judge Sullivan imposed strict travel restrictions on General Flynn and required him to surrender his passport. The General was forced to sell his home two years ago to fund his legal defense and still needs a legal defense fund. He has effectively been on probation since 2017.

SCO has long advised that his cooperation with that office is complete, however General Flynn continues to cooperate in the EDVA conspiracy, §951 and §1001 prosecution of his former business partner, who misled him in many ways, and that trial is scheduled for July 15. General Flynn will continue to cooperate with the EDVA regardless of what happens in response to this request or when.

Friday, May 16, Judge Sullivan entered minute orders requiring the government to file on the open docket transcripts of all recordings of General Flynn with Russian officials along with an unredacted copy of the Mueller report as to all sections that apply to General Flynn. He also ordered production of the actual recordings to him on a DVD. The “voicemail recording” to which the docket text refers was already in the Mueller Report, Vol. II at 6, 120-21. We just learned from the required production of the transcript of the message that SCO selectively removed words that changed the tone of and significantly clarified John Dowd’s message to Rob Kelner of Covington and Burling.

We anticipate that General Flynn’s sentencing would be set for late August or September, and I will request an additional 90 days in our status report due June 14.

Brief background.

I’m sure you know more about this now than I do—as we anxiously await more information from the Inspector General and declassification of more 302s, FISA applications and other information. However, as more evidence has come to light, it is increasingly apparent that General Flynn was targeted and taken out of the Trump administration for concocted and political purposes. We believe there is specific evidence of that fact. He was the tip of the spear aimed at President Trump. From the time Flynn was fired from the Obama administration as DIA, it is public knowledge that General Flynn was a sharp, vocal, and effective critic of the Obama administration and Mrs. Clinton for Benghazi, the fight against ISIS, and the Iran Nuclear deal. Mr. Obama personally attempted to persuade incoming President Trump not to hire General Flynn. I have been told Flynn is the only name Obama mentioned to Mr. Trump.

From former Director Comey’s bragging on national television (just two days before Flynn’s scheduled 18 December sentencing) about how he dispatched two agents to ambush-interrogate Flynn—a special tactic carefully planned and executed for the Trump administration in its first few chaotic days—to new evidence surfacing daily, it appears the FBI and DOJ under Loretta Lynch and Sally Yates broke all protocols, used the ancient Logan Act as a pretext, ran a back-channel with Peter Strzok to Vice President Pence’s office, began an investigation on Flynn even before that of which we were aware, illegally unmasked him, illegally leaked his conversation

Confidential to AG/DAG
with Kislyak, got him fired, and yet still cleared him of any wrongdoing until Mr. Mueller appeared.

General Flynn was the victim of egregious Fourth Amendment violations. His call with Kislyak—as Mr. Van Grack was forced to admit in Judge Sullivan’s court on December 18—was perfectly lawful, and SCO did not even consider charging him with a Logan Act violation—much less treason. There was no “Logan Act violation,” and everyone knew it. Yet General Flynn was illegally unmasked by the Obama administration and his call leaked to explode the “Russia collusion” narrative in the press. The FBI interview was worse than “entrapment.” He was led to believe he was having a casual conversation with friends about a training exercise from a day or two before, when in truth, it was a set-up—tantamount to a “frame”—manipulated by Yates, Comey, Strzok, McCabe, and others to take General Flynn out of the administration. SCO then used it to pressure him to try to take out President Trump.

Brady/Giglio Request.

Judge Sullivan entered a Brady order as soon as he was assigned the case. Under the terms of a protective order already in place, I request review and production of the following information that is likely Brady/Giglio material as to General Flynn:

1. We have information that the British Embassy delivered a classified document shortly after Trump’s election to the PTT, likely also to Susan Rice, and perhaps to others that destroys Steele’s credibility, disavows him, and declares him untrustworthy. It apparently went into the safe for the PTT office. SCO made clear it was aware of and very concerned about this document, was told by a witness with personal knowledge about it, yet SCO did not even take notes about the document. Notably, there is no mention of it in the Mueller Report.

2. The original draft of the Flynn 302 and all subsequent drafts, including the A-1 file that shows everyone who had possession of it. It appears that SCO has never produced the original 302. There were multiple drafts. It stayed in “deliberative/draft” stage for an inordinate time. Who influenced it, how, and why?

3. All documents, notes, information, FBI 302s, or testimony regarding Nellie Ohr’s research on General Flynn.

4. All payments and instructions by the FBI, CIA, and/or DOD to Stephan Halper going back as far as 2014 regarding General Flynn and/or Svetlana Lokhova.

---

1 No one has ever been prosecuted under the Logan Act. Charges were brought in 1803 but dropped. Sally Yates’ attempted resurrection of this never-prosecuted statute was obviously a pretext—as by its plain text, it would not apply to a member of the President-Elect’s transition team who had every right to speak to the Russian Ambassador. In fact, SCO admitted as much at the hearing in Judge Sullivan’s court on December 18. FBI 302s of McCabe, McCord, Yates, Strzok, and Page admit as much also. Regardless, as incoming NSA to the President-Elect, General Flynn was doing his job when he spoke to Kislyak.

Confidential to AG/DAG
Mr. Halper, and perhaps Cambridge Professor Christopher Andrew (M15 tie) and Mr. Richard Dearlove of M16, played a role in setting-up and then relentlessly smearing Flynn with allegations of an illicit relationship with Ms. Svetlana Lokhova—a British national and academic of Russian origin and living in London. She has just filed suit over the defamation, including a detailed timeline. We have information that that Halper was paid through the Office of Net Assessment, and that it was illegal. David Shedd (former Deputy Director of DIA) and Mike Vickers, who were CIA officers, were likely responsible for it. Someone in DOD Office of Net Assessment, I believe it was James H. Baker (an Obama “plant”), who paid Halper, met with David Ignatius on a monthly basis. Halper was paid four times what his “studies” were worth. Shedd was fired from DIA for fraud, and DIA had a moratorium on CI during this time because of a major 4th Amendment violation. Shedd met with VP Pence twice during the transition.

5. The Mueller/Weissmann report discloses that Flynn was under investigation previously. Vol. II at pp. 24, 26. When did surveillance first begin on Flynn? Was there a FISA warrant or application ever made on Flynn? If so, what was the basis; who wrote it, and who approved it? Or was he just illegally surveilled? Why was the Trump team not defensively briefed on this? This supposedly predates “Russia collusion.” The Mueller Report is the first General Flynn, or apparently the President, was notified of that startling fact—as General Flynn had a security clearance, was briefing DIA on his travel to and from Russia to give a speech set up by his speaker’s bureau, and no one voiced any concerns. That briefing alone is Brady material that has not been produced.

6. Transcripts, recordings, notes, and 302s of any interactions with human sources tasked against General Flynn since he left DIA.

7. The unredacted Page-Strzok text messages as well and text messages, emails and other electronic communications to, from or between Andrew McCabe, James Comey, Rod Rosenstein, Bruce Ohr, Nellie Ohr, Andrew Weissmann, Tashina Gauhar, Zainab Ahmad regarding General Flynn or the FISA applications or any illegal surveillance that would have reached General Flynn’s communications.

8. The General’s plea was heavily manipulated while Brady evidence was suppressed, and the press was complicit. When did the Inspector General of the DOJ notify SCO of the extremely biased Strzok-Page text messages and to what extent? It appears to have been in July. When did the press start pushing for answers on Strzok-Page departure and texts? And, who at SCO (Weissmann? Van Grack?) persuaded the press to sit on the Strzok story until the very day after Flynn’s guilty plea was taken in court?

---

2 On 07/26/17, Strzok is interviewed under advice of rights—obviously more than General Flynn received. Was that Weissmann?
Suddenly, SCO was making extreme threats and placing enormous pressure on General Flynn to enter a guilty plea. Sometime after Mueller was notified by the IG of the extremely biased Strzok-Page text messages, Mueller went to Rosenstein to get authority to target Michael Flynn, Jr.

Flynn, Jr., who had a four-month-old baby, was required to produce his phones and computers. Suddenly, General Flynn was threatened with the public arrest, search of his home, the indictment of his son, the Manafort treatment, etc.

The eleventh hour before General Flynn signed the plea agreement, SCO notified defense counsel by phone only that “electronic communications” of one agent (Strzok) “showed a preference for one of the candidates for President,” the IG was assessing whether that constituted misconduct, and that the agents did not think Flynn was lying at the time.

It would seem the press was in league with SCO to conceal the information of the Strzok-Page texts until after Flynn entered his guilty plea. Flynn entered his plea in open court before Judge Contreras on December 1 (who almost immediately thereafter recused for no disclosed reason), and on December 2, WaPo published an article exposing that Strzok and Page had made “politically-charged texts disparaging Trump.”

Judge Sullivan took the case on December 7, 2017, and entered a Brady order on December 12, updating it on February 16, 2018. That order that required production of all Brady even though a guilty plea had been entered. Despite a protective order, SCO remained silent until March 13, 2018, when it provided its first Brady production which then included a hyperlink to then publicly available Strzok-Page texts.

The timeline makes it obvious that Mr. Van Grack, Ms. Ahmad, and SCO deliberately suppressed remarkable Brady material both devastating to the credibility of the agent who led the ambush-interview of General Flynn as well as evidence supporting the General’s own truthfulness, while they sought every means to put the utmost pressure on him to compel a guilty plea—to the point of using threats against his son—and manipulated the press to hide the truth in the process.

9. Unredacted copies of all Comey memos that mention or deal with any investigation, surveillance, interviews, or use of a CHS against General Flynn.

10. An unredacted version of Comey’s testimony before all Congressional committees.

11. Comey 302 of 11/15/17 and all Comey 302s that bear on or mention Flynn.

12. The briefings Flynn provided to DIA before and after his trip to Russia speaking to RT.

Confidential to AG/DAG
13. Any information, recordings, 302s, about Joseph Mifsud’s presence and involvement in spying on General Flynn and presence at the RT dinner in Russia on December 17, 2015. We believe Mifsud was working for/at behest/with Brennan.

14. All details, notes, memoranda, 302s of the McCabe/Strzok meeting with VP Pence hinted by Mueller at Vol II: 34. Note Peter Strzok’s Russia analyst was married to Pence’s Chief of Staff, Josh Pitcock. This meeting was never revealed to General Flynn.

15. Mary McCord 302s or interviews, including when she advised the FBI that the Logan Act was “a stretch,” that the FBI had concluded Flynn did not have ‘a clandestine relationship with Russia,’ there was no further need to interview him, and a 302 of 7/17/17 when she went to the White House with Sally Yates to discuss Flynn.

16. Any 302s or notes of Sally Yates, including when she advised that she was “not clear what the FBI was doing to investigate Flynn,” that the interview on January 24 broke protocols, and that the agents believed he was telling the truth. Also, we request the 302s or notes for or of her meetings with White House Counsel, or materials she reviewed in preparation for those meetings.

17. An internal DOJ document dated January 30, 2017, in which the FBI advised DOJ that Flynn was not acting as an agent of Russia.

18. FBI 302s and notes of interviews of Michael Boston regarding Flynn’s lack of involvement in Flynn Intel Group work on the Turkey project.

19. An unredacted version of all information provided by Kathleen Kavlic at the Department of State to the FBI.

20. All evidence that McCabe said words during a senior-attended FBI meeting/video conference to the effect of: “First we fuck Flynn, then we fuck Trump.”

21. The two-page EC that supposedly began the Russia investigation.

22. We believe all of the information that underlies the bogus FISA applications is Brady as to Flynn as well, including anything that undermines Steele’s credibility, because the FISA applications were a ruse to coverup all of the illegal spying and FISA abuses that had been going on for some time—including of General Flynn—and evidence egregious government misconduct.

23. Given the unusual involvement Andrew Weissmann and Ms. Ahmad had in DOJ with Bruce Ohr, Christopher Steele, the FBI and the FISA applications, we request all Bruce Ohr 302s of his debriefings regarding Steele and the role of Weissmann and Ahmad as
their involvement may have infected the entire investigation and prosecution of General Flynn.

24. Testimony of all persons who signed FISA applications whether those applications—regarding Flynn or anyone that would have reached Flynn’s communications—were approved or rejected.

25. Unredacted versions of all FISA applications related to the Russia matter, whether approved or rejected, since 2015, involving Flynn or reaching Flynn’s communications with anyone.

26. Information identifying reporters paid by Fusion GPS and/or the Penn Quarter group to push the “Russia Collusion” hoax and any stories about General Flynn and any testimony or statements about how the reporters were used.

27. KT McFarland’s 302s, notes of interviews of her or her own notes, and text messages with General Flynn from “The Passing of the Baton” through on and around December 29, 2015, and until Flynn’s resignation. The 302s should reflect that she initially lied to FBI agents but was shown her statements or text messages from that time and given an opportunity to correct her statements—unlike General Flynn. She also had counsel and was aware of the purpose of the interview by then.

28. Any new information on the SCO’s destruction of the cell phones of Strzok and Page after being advised of their abject bias and text messages. What efforts were made to recover those texts? Were any recovered from any source? NSA? This raises a significant spoliation issue and provides additional reasons to obtain, preserve and retrieve information from the phones of all other members of SCO to obtain communications from Strzok and Page in addition to others now implicated in highly questionable conduct—such as Weissmann and Ahmad with Bruce Ohr, Nellie Ohr, Baker, McCabe, Comey, and Christopher Steele.

29. Any information regarding FBI **redacted** eradication of cell phone data, texts, emails, information belonging to Peter Strzok and Lisa Page that created the “gap” identified by the IG and caused important information to be destroyed.

30. The subjects of Strzok’s failures in any polygraph examinations after the MYE began.

31. Evidence that Clapper specifically targeted General Flynn for removal/destruction and on whose orders.

32. We request production of any Brady/Giglio you may have found already in your separate investigations (and by the IG) of which we are not aware.
33. We would appreciate the government’s agreement to whatever extension of time is necessary on the Flynn case to allow further review of his case by me and by the Department. We would also appreciate the government’s agreement to remove his travel restrictions and allow him to travel freely within the United States.

34. We also request a transcript and copies of the recordings of General Flynn’s calls with Ambassador Kislyak or anyone else that were reviewed or used in any way by the FBI or SCO.

We have information that there are additional witnesses who have never been interviewed by SCO but who have information exculpatory as to General Flynn. We will consult with them and would like to provide their names to you for interviews by new government counsel reviewing the prior conduct if you believe they would be helpful.

As an officer of the Court in the highest sense of the words, I cannot thank Attorney General Barr and you enough for all that you are doing to restore trust in the Department and the Rule of Law. We appreciate your attention to and consideration of these important issues, and I look forward to your reply. My cell is [REDACTED]. I will continue working on a more comprehensive analysis of these issues. I would like to schedule a meeting to discuss this further at your earliest convenience and provide you additional information. Please let me know when.

Sincerely,

[Signature]

Sidney Powell

cc: The Honorable William Barr
Attorney General of the United States