

Trump lawyers claim unlimited presidential authority

Patrick Martin
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In a 20-page letter sent to Special Counsel Robert Mueller in January, two of President Trump's private lawyers argued that Trump had the authority to order an end to the Russia investigation and to pardon anyone targeted by it. This assertion of unlimited presidential power was made public Saturday, when the *New York Times* published an account of the letter as well as its full text.

The apparent purpose of the letter was to respond to pressure from the special counsel for Trump to testify under oath about a range of issues. These relate to claims both of collusion between the 2016 Trump campaign and Russian government operatives and of obstruction of justice by Trump in connection with his firing of FBI Director James Comey after Comey rebuffed suggestions that he “go easy” on former Trump National Security Advisor Michael Flynn.

The two Trump attorneys were John Dowd, who has since resigned, and Jay Sekulow, who remains part of the team of lawyers handling Trump's response to the Mueller investigation. Recent additions to this group include former New York Mayor Rudy Giuliani and Emmet Flood, who worked as part of the team defending President Bill Clinton against impeachment in 1998–99.

Giuliani appeared on several television network interview programs on Sunday morning in what appeared to be a deliberate effort to tone down the impact of the publication of the January memo to Mueller. He claimed that he would not have advanced some of the more sweeping claims of presidential authority made by Dowd and Sekulow, suggesting that Trump did not intend to assert such authority at this time.

The former mayor was careful not to explicitly disavow the arguments made in the memo to Mueller,

suggesting only that they were unnecessary for the purpose of dealing with the Mueller investigation because Trump could rely instead on the argument that he had not engaged in collusion or obstruction of justice.

It would be foolish to assert a presidential power to halt an investigation into himself, or to issue a self-pardon, Giuliani said, because this would trigger a political firestorm and lead to impeachment proceedings by Congress.

Speaking on NBC's “Meet the Press” program, he cited the power of the courts to undo indictments or investigations that are unfair. “I mean one of the possible remedies here is that this whole investigation may be totally illegitimate,” he said. “That's certainly something we reserve the right to raise. And a judge could determine that.”

Appearing on ABC's “This Week” program, he said that rather than asserting a right to fire Comey in order to close down the Russia investigation, “I'd save that as the last argument.” He continued, “I think the stronger argument is he didn't... I mean, firing an employee when you know that another employee's going to come in and take that job and further the investigation cannot possibly obstruct the investigation.”

Despite the hemming and hawing by Trump's current chief legal spokesman, the power asserted in the January memo is so sweeping that it would transform the presidency into an elective dictatorship, in which the occupant of the White House would enjoy absolute power during his term in office.

Dowd and Sekulow argued in the memo: “It remains our position that the president's actions here by virtue of his position as the chief law enforcement officer could neither constitutionally nor legally constitute

obstruction because that would amount to him obstructing himself. And that he could, if he wished, terminate the inquiry or even exercise his power to pardon if so desired.”

This passage has been widely, and justly, compared to the position of President Richard Nixon, who said of the Watergate crisis in the course of a subsequent television interview with David Frost, “When the president does it, it is not illegal.”

Dowd and Sekulow also declared that Trump would not testify voluntarily and was not subject to a subpoena to compel his testimony, even though the courts compelled President Clinton to testify in a private lawsuit brought against him by Paula Jones, with the financial backing of a coterie of ultra-right Republican lawyers and fundraisers. It was this lawsuit that created the “perjury trap” which provided the legal basis for Clinton’s impeachment, since he lied under oath when questioned by attorneys for Paula Jones about his affair with Monica Lewinsky.

The assertion of quasi-dictatorial power by Trump only underscores the reality that there is no progressive or democratic side in the conflict that is raging in official Washington between the Trump White House, backed by most congressional Republicans, and sections of the military-intelligence apparatus, backed by congressional Democrats and some Republicans.

While Trump argues for an authoritarian presidency, subject to no legal constraints, his opponents argue for the unconstrained power of the FBI and the intelligence agencies to spy on their supposed political overseers and intervene massively in elections that determine who will hold executive authority over them.

Neither an imperial presidency nor an imperial FBI/CIA represents a defense of the democratic rights of the American population. On the contrary, the various factions within the state and the US ruling elite look upon American working people with undisguised fear and hatred.

There is one other significant aspect of the Dodd-Sekulow memo: it admits that President Trump drafted a statement issued by Donald Trump Jr. a year ago about his meeting at Trump Tower during the campaign with a group of Russians, for the avowed purpose of receiving “dirt” about the Hillary Clinton campaign. Sekulow and other Trump spokesmen, including press secretary Sarah Sanders, lied about the president’s role

in drafting the statement, claiming that he had nothing to do with it. But in the secret memo to Mueller—now made public by unidentified opponents of Trump within the US government—Dowd and Sekulow say the opposite.

This only underscores the scale of the lying on both sides in this conflict within the US ruling elite. Both factions are seeking to conceal from the American people the real issues underlying their conflict: disputes over foreign policy, particularly in relation to Syria and Russia, and the concern among a growing section of the US ruling elite that Trump’s erratic conduct will make it impossible for him to retain any significant popular support in the event of a crisis involving war, financial collapse or social conflict in the United States.



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