



U.S. Department of Justice

Michael R. Sherwin
Acting United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

October 22, 2020

Via Email

Sidney Powell
2911 Turtle Creek Blvd., Suite 300
Dallas, TX 75219

Jesse Binnall
Harvey & Binnall, PLLC
717 King Street
Suite 300
Alexandria, VA 22314

Re: *United States v. Michael T. Flynn*, 17-cr-00232 (EGS)

Dear Counsel:

We write to respond to your recent discovery requests. On October 20, 2020, you requested “immediate production of any additional information that has been uncovered by Durham or the FBI or any federal officer or agent and provided to US Attorney Jensen--and not previously provided to the defense.” As we have previously disclosed, beginning in January 2020, the United States Attorney for the Eastern District of Missouri has been conducting a review of the Michael T. Flynn investigation. Beginning in April 2020, and continuing through October 2020, we have disclosed on a number of occasions documents identified during that review. We are aware of no other documents or information at this time that meet the standard for disclosure in the Court’s Standing Order (Doc. 20).

You also requested “the original 302 and later drafts . . . , or the data evidencing their destruction.” The Federal Bureau of Investigation has a well-documented record management program and retention plan that provides specific instructions for the collection of information, the maintenance of documents, and the retention or disposal of documents. Those guidelines state that “[w]orking files, such as preliminary drafts, notes, and other similar materials, are to be destroyed when the final documents have been approved by the FBI official with authority to do so.” The policy applies to “all drafts created in any medium.” See Records Management Policy Guide, at p. 31, available at <https://vault.fbi.gov/records-management-policy-guide-0769pg-part-01-of-01/Records%20Management%20Policy%20Guide%200769PG%20Part%2001%20of%2001/vie#w#document/p4>.

Here, the FD-302 of your client's January 24, 2017, interview was created in SENTINEL, which is the FBI's electronic records management system for all criminal and intelligence gathering activities:

SENTINEL provides FBI employees the ability to create case documents and submit them through an electronic workflow process. Supervisors, reviewers, and others involved in the approval process can review, comment, and approve the insertion of documents into the appropriate FBI electronic case files. Upon approval, the SENTINEL system serializes and uploads the documents into the SENTINEL repositories, where the document becomes part of the official FBI case file. SENTINEL maintains an auditable record of all transactions.

See Privacy Impact Assessment for the SENTINEL System, May 28, 2014, at p. 1, available at <https://www.fbi.gov/services/information-management/foipa/privacy-impact-assessments/sentinel>.

In this this case, SSA 1 began drafting the FD-302 on the evening of January 24, 2017. The FD-302 was electronically accessed by SSA 1 and former DAD Peter Strzok in SENTINEL on several occasions. The FD-302 was electronically approved by FBI Assistant Director for Counterintelligence E.W. Priestap on February 15, 2017. Our review of SENTINEL's audit trail establishes that no other FBI personnel accessed the FD-302 electronically prior to its approval and serialization. Consistent with the FBI's records retention policy, no prior drafts of the FD-302 were maintained within SENTINEL.

You have previously been provided with three draft versions of the FD-302, dated February 10, 11, and 14, 2017, that were circulated in PDF format by email to FBI personnel for review; these are the only draft versions of the FD-302 that we have located during our diligent searches.

Finally, you requested "all the comms retrieved of McCabe with Comey, Page, Strzok, Baker, Priestap or anyone else about Flynn, Crossfire Razor or any other name for General Flynn or Michael G. Flynn, and any comms of Comey or any FBI member with anyone in the Obama White House about Flynn." As discussed above, we have reviewed those communications and have disclosed all such communications that we have identified that meet the standard for disclosure in the Court's Standing Order (Doc. 20).

