

As President, Trump Demanded Investigations of Foes. He Often Got Them.

He has threatened to target his perceived enemies if elected again. A look at his time in the White House shows how readily he could do so.



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By Michael S. Schmidt

Michael S. Schmidt has been covering the investigations into Donald J. Trump since 2017.

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It was the spring of 2018 and President Donald J. Trump, faced with an accelerating inquiry into his campaign's ties to Russia, was furious that the Justice Department was reluctant to strike back at those he saw as his enemies.

In an Oval Office meeting, Mr. Trump told startled aides that if Attorney General Jeff Sessions would not order the department to go after Hillary Clinton and James B. Comey, the former F.B.I. director, Mr. Trump would prosecute them himself.

Recognizing the extraordinary dangers of a president seeking not just to weaponize the criminal justice system for political ends but trying as well to assume personal control over who should be investigated and charged, the White House counsel, Donald F. McGahn II, sought to stall.

“How about I do this?” Mr. McGahn told Mr. Trump, according to an account verified by witnesses. “I’m going to write you a memo explaining to you what the law is and how it works, and I’ll give that memo to you and you can decide what you want to do.”

The episode marked the start of a more aggressive effort by Mr. Trump to deploy his power against his perceived enemies despite warnings not to do so by top aides. And a look back at the cases of 10 individuals brings a pattern into clearer focus: After Mr. Trump made repeated public or private demands for them to be targeted by the government, they faced federal pressure of one kind or another.

The broad outlines of those episodes have been previously reported. But a closer examination reveals the degree of concern and pushback against Mr. Trump's demands inside the White House.

And it highlights how closely his expressed desires to go after people who had drawn his ire were sometimes followed by the Justice Department, F.B.I. or other agencies. Even without his direct order, his indirect influence could serve his ends and leave those in his sights facing expensive, time-consuming legal proceedings or other high-stress inquiries.

The story of that period has a powerful resonance today as Mr. Trump, angered in part by the two federal and two state-level indictments of him since leaving office, threatens to carry out a campaign of retribution if he returns to the White House. He has signaled that a second Trump administration would be stocked not with people who served as guardrails during his first term, but with carefully vetted loyalists who would eagerly carry out his wishes.



Mr. Trump suggested in 2018 that if the attorney general would not pursue Hillary Clinton, he would prosecute her himself. Kent Nishimura for The New York Times

If elected again, he would also return to the White House bolstered by the Supreme Court's ruling in July that former presidents have broad immunity from prosecution for official acts taken while in office.

Interviews, court filings and secret White House documents shed new light on how Mr. Trump's demands for prosecutions in the spring of 2018 ignited a behind-the-scenes push by some of his top aides to contain his impulses, protect the rule of law and insulate the White House from legal and political blowback — issues that some of them say are arguably even more acute today.

The memo that Mr. McGahn's lawyers in the White House Counsel's Office produced following Mr. Trump's April 2018 tirade about prosecuting Mrs. Clinton and Mr. Comey amounted to a primer on presidential power — and the limits on it — when it comes to the justice system, according to draft copies of it.

“You’ve asked what steps you may lawfully take if you disagree with the attorney general’s decision not to pursue criminal prosecution or not to conduct further criminal investigation,” a draft of the memo that ultimately went to the president began.

The lawyers acknowledged that presidents can have considerable, if indirect, influence over Justice Department decision-making, not least through the power to replace the attorney general.

But they made clear that Mr. Trump did not have the authority “to initiate an investigation or prosecution yourself or circumvent the attorney general by directing a different official to pursue a prosecution or investigation,” as one draft memo put it.

The main message to Mr. Trump in the memos was that presidential meddling in a prosecution — flouting a norm that had become deeply embedded in American politics and government in the wake of Watergate — could have profoundly negative consequences for Mr. Trump, including the potential for impeachment and electoral defeat.

Even as they made that argument, the lawyers remained so concerned about being ignored by Mr. Trump that they smuggled drafts of the memo out of the White House complex so they would have a record of their efforts to restrain him if his demands for retribution got him, and them, in political and legal trouble.

They were right to be worried.

Within a month, Mr. Trump plunged ahead with one of his most successful efforts to have a Democratic critic investigated. He publicly demanded and ultimately got an inquiry by federal prosecutors into whether John F. Kerry, the former secretary of state, had broken the law by remaining in contact with Iranian diplomats while Mr. Trump was moving to end a nuclear deal with Tehran that Mr. Kerry had helped to negotiate during the Obama administration.

The Kerry investigation was not an outlier.

Through the rest of Mr. Trump's time in office, he never let up on pressuring federal agencies to take action against his perceived enemies even as he was counseled against it by aides like Mr. McGahn and John F. Kelly, the White House chief of staff from the middle of 2017 until the beginning of 2019.



As White House chief of staff, John F. Kelly was among the aides who counseled Mr. Trump against pressuring federal agencies to take action against his perceived enemies. Tom Brenner/The New York Times

Those who would find themselves facing down the power of the federal government ranged from high-profile figures like Mrs. Clinton to F.B.I. officials like Mr. Comey to people formerly in Mr. Trump's personal orbit like Michael D. Cohen, his former lawyer and fixer, and Omarosa Manigault Newman, a former contestant on "The Apprentice" who worked in communications at the White House in 2017.

Mr. Trump's efforts were so sustained and troubling to top West Wing aides that at least two of them took from the White House notes they had written that memorialized how he said he wanted to use the powers of the federal government against his rivals.

In a few of the cases where Mr. Trump wanted investigations, there was legitimate basis for action. But in many others, there was little or no legal justification. None resulted in a criminal conviction.

There is no record of the inquiries and other actions coming about as a result of a formal, signed order from Mr. Trump. Instead, he repeatedly signaled what he wanted, publicly and privately, leaving no doubt among subordinates.

His defenders often seek to explain away Mr. Trump's threats to take legal action against opponents as campaign trail bluster. But those who worked directly for him in the White House said Mr. Trump should be taken at his word.

"When Trump says things like this, he's serious about it — I know from experience that he constantly voiced the idea and it's something he will come back to until it gets done," said John R. Bolton, who served as Mr. Trump's national security adviser and said he had witnessed the president discussing whom he wanted investigated before himself becoming one of Mr. Trump's targets.

'Strong Constitutional Norms'

After his 2016 campaign, when chants of "lock her up" punctuated his rallies, Mr. Trump professed that he was ready to set aside his longstanding calls for Mrs. Clinton to be prosecuted. And during his tumultuous first year in office, as the investigation into his campaign's ties to Russia gained traction, his main focus was on fending off that inquiry, which only expanded after he fired Mr. Comey.

But by late 2017 into early 2018, Mr. Trump's attention shifted back to an old preoccupation and he wanted to go the offensive. He told aides he wanted to use the I.R.S. to target Mr. Comey; Peter Strzok, the lead F.B.I. agent from the Russia

investigation; Lisa Page, a top F.B.I. aide; and Andrew G. McCabe, the bureau's deputy director, according to federal court records and previous public statements made by Mr. Kelly, the White House chief of staff at the time.

Repeatedly, Mr. Kelly and Mr. McGahn, the White House counsel, strongly cautioned Mr. Trump against such talk. To them, using the federal government to go after those he saw as his enemies was a tactic from an authoritarian playbook. Mr. Kelly specifically told Mr. Trump that along with being immoral and self-destructive, weaponizing the I.R.S. was illegal.

By April 2018, Mr. Trump took the idea to another level.



Mr. Trump told aides that he wanted to prosecute James B. Comey, the former F.B.I. director, and other F.B.I. officials he perceived as enemies. Doug Mills/The New York Times

Early that month, Mr. Trump learned that the F.B.I. had searched the New York office of Mr. Cohen, his longtime lawyer, who had channeled hush money payments in the final days of the 2016 campaign to a porn actress who said she had a sexual liaison with Mr. Trump.

In the days after the raid, Mr. Trump told Mr. McGahn that he wanted to order Mr. Sessions, the attorney general, to prosecute Mrs. Clinton and Mr. Comey, and that if Mr. Sessions refused he would take matters into his own hands, according to people told about the conversation at the time.

Mr. McGahn tried to explain to Mr. Trump that as president he did not have the power to prosecute anyone. That power, he explained, was left to the Justice Department. And if Mr. Trump ordered the department's career prosecutors to do something they considered improper or unjustified, they would quit.

In offering to provide a memo to Mr. Trump about what he could and could not do, Mr. McGahn was hoping the president would become distracted by other matters while the lawyers did their research and wrote up their findings.

The lawyers determined that much of what Mr. Trump wanted to do to instigate investigations of rivals was most likely legal, but argued that "strong constitutional norms of nonpolitical law enforcement should also guide your decision making," according to a draft of the memo.

"However good the president's intentions, there are those who would view any political involvement in a prosecution or criminal investigation as violating the constitutional norm and the president's constitutional obligations," one draft said. "It may prove difficult to explain in an easy, understandable way why intervening in a particular proceeding was necessary and would not compromise its fairness."

There was a distinction, the lawyers wrote, between what a president technically could do and what he should do.

"The gulf between the overwhelming power of the federal government and the vulnerability of the individual citizen may be nowhere starker than in the criminal prosecution or an investigation," they wrote.

A polished version of the memo was delivered to Mr. Trump. Whether he read it is not known. But in the West Wing, there was continued concern that Mr. Trump could do something politically catastrophic or even illegal, creating potentially serious problems for him and those working for him.



Donald F. McGahn II, the White House counsel, wrote a memo to Mr. Trump cautioning that presidential meddling in a prosecution could have profoundly negative consequences. Doug Mills/The New York Times

Lawyers in the White House Counsel's Office who had worked on the memos printed copies of drafts, which were taken off the White House grounds for safekeeping. If the lawyers were to face questions about what advice they had

given Mr. Trump, they would have a record that they had tried to deter him from what they believed would be seen as an egregious misuse of executive power.

At least two other West Wing officials defied Mr. Trump's repeated instructions not to take notes and wrote down accounts of Mr. Trump's eruptions about using the federal government to target his perceived enemies. Those notes were taken from the White House as well to ensure there was documentation.

The special counsel's team learned through the close relationships they built with witnesses and their lawyers about Mr. Trump's demands for prosecutions and the existence of the memo. But believing they did not have a strong basis to investigate, they decided not to pursue the matter further.

Still, the president's conduct deeply troubled Andrew Goldstein, one of the lead prosecutors on the obstruction investigation headed by the special counsel Robert S. Mueller III. Mr. Goldstein saw it as among the most concerning of Mr. Trump's behaviors.

"Using presidential power to launch investigations of your rivals, without real evidence of potential wrongdoing, goes against everything the Department of Justice stands for," said Mr. Goldstein, who along with other members of Mr. Mueller's team is publishing a book about their investigation this month.

"But it is not necessarily a crime," he said, "and after the Supreme Court's immunity decision, this kind of conduct may not be subject to criminal investigation at all."

Asked on Friday about Mr. Trump's use of threats against his foes, a Trump campaign spokesman called the accounts "propaganda falsely accusing President Trump of doing what Democrats are doing to him — carrying out illegal, weaponized lawfare against their political opponents."

Pressure Filters Down

The Justice Department investigation into Mr. Kerry, who served as secretary of state under President Barack Obama, is a case study of how Mr. Trump's desires could lead to prosecutorial action even without a formal order.

Just weeks after the White House Counsel's Office produced its memos in 2018, Mr. Trump, over two days on Twitter and during a public appearance at the White House, attacked Mr. Kerry for remaining in touch with Iranian diplomats after leaving office.

Mr. Trump, who wanted to pull the United States out of the nuclear deal that Mr. Kerry had helped negotiate with Tehran, suggested that Mr. Kerry might have violated the Logan Act, which restricts unauthorized citizens from negotiating with foreign governments.

A day after Mr. Trump's second tweet, the Justice Department began to take action against Mr. Kerry. That day, a top official at the Justice Department in Washington told national security prosecutors at the U.S. attorney's office in Manhattan that they were being assigned to investigate Mr. Kerry, who denied any wrongdoing.

"The conduct that had annoyed the president was now a priority of the Department of Justice," the U.S. attorney in Manhattan at the time, Geoffrey Berman, later wrote in a book.



The Justice Department investigation into John F. Kerry is an example of how Mr. Trump's stated desires could lead to prosecutorial action even without a formal order. Anna Moneymaker for The New York Times

“No one needed to talk with Trump to know what he wanted,” Mr. Berman wrote. “You could read his tweets. Anyone wanting to please him at Main Justice — from the attorney general down through the political appointees in his chain of command — could act on them.”

Nearly a year later, Mr. Trump posted on social media again about Mr. Kerry, raising questions about whether he had broken the law. That afternoon, a top Justice Department official in Washington again called the U.S. attorney's office in Manhattan to ask the office why it had not yet taken an investigative step that would have given the department access to some of Mr. Kerry's electronic communications, according to Mr. Berman's account.

The same official pressed the office again the following day.

“The pattern here is clear — and outrageous,” Mr. Berman recounted in his book. “In the beginning, we got pulled into this investigation by Main Justice after Trump started tweeting his displeasure about Kerry. And now, 11 months later, on the same day of another Trump tweet, one in which he’s specific about what criminal behavior he believes Kerry committed, we were being pushed to move forward.”

Mr. Berman said that “there was no other way for me to look at it” than that the Justice Department was pressing his office on what was taking so long and asking, “Why aren’t you going harder and faster at this enemy of the president?”

Mr. Bolton, who became Mr. Trump’s national security adviser in April 2018 and served through September 2019, said that he witnessed Mr. Trump on at least a half dozen occasions tell aides that he wanted Mr. Kerry prosecuted for his contacts with Iran.

When top Justice Department officials learned that prosecutors in New York would not be bringing a case against Mr. Kerry, a senior aide to Attorney General William P. Barr called Mr. Berman to say that the case would be passed along to another U.S. attorney’s office. That second set of prosecutors ultimately came to the same conclusion as those in New York and did not bring charges.

A List of Targets

Nearly four years after Mr. Trump left office, a more complete picture of how Mr. Trump’s critics and rivals came to be scrutinized by the government is emerging from interviews and court records.

Mr. Trump sought to use the government to go after four broad categories of perceived enemies and critics.

One was F.B.I. officials, whom he sought to portray as biased or corrupt as they investigated him. Another was political rivals, whom he sought to tar with allegations of the same kind of wrongdoing, like collusion with foreign countries, that he was under investigation for.

He also wanted government power deployed against news organizations that produced coverage he did not like, as well as against people from his personal and business life he felt had betrayed him.

His most intense focus was on F.B.I. officials who were involved in the Russia investigation. They included Mr. Comey, Mr. McCabe and Mr. Strzok, all of whom would come under the scrutiny of the Justice Department and, in the case of Mr. Comey and Mr. McCabe, who were subjects of unusual and invasive I.R.S. audits. (A later investigation by the tax agency's inspector general found no evidence that the audits could be traced back to political pressure.)

Mr. Trump also pushed aggressively for an investigation based on his belief that the entire Russia investigation stemmed from a conspiracy against him by intelligence or law enforcement agencies. Mr. Barr named a special counsel, John H. Durham, to undertake that inquiry. It ended without uncovering anything like the plot suspected by Mr. Trump.



John H. Durham was appointed special counsel to effectively investigate those who had investigated Mr. Trump for his campaign's ties to Russia. Haiyun Jiang for The New York Times

But along the way, it put a number of those on Mr. Trump's enemies list under legal scrutiny. Mr. Durham looked at a range of matters related to Mrs. Clinton's 2016 campaign, particularly its role in providing information about Mr. Trump's ties to Russia. A lawyer working for the campaign was charged but acquitted. And Mrs. Clinton ultimately sat for questioning before the special counsel about a range of conspiracy theories pushed by Mr. Trump and his allies.

Ever attuned to coverage of himself, Mr. Trump grew angry and frustrated with news organizations, casting the media as an "enemy of the people" and singling out reporters for attacks. But he also pressed for investigations and prosecutions, especially when it came to what he considered leaks intended to hurt him.

While leak investigations were also common during the Obama administration, Mr. Trump's Justice Department took the unusual step in 2020 of secretly obtaining phone and email records for journalists from CNN, The Washington Post and The New York Times, something that only came to light when disclosed later by the Biden administration.

Even while Mr. Trump was focusing the government's powers on big institutions and well-known political figures, he railed against onetime aides and confidants who he felt had betrayed him — some of whom subsequently found themselves battling the government.

During the pandemic, Mr. Cohen, who had been convicted on federal charges stemming from his role in the hush money payments, was allowed, like many nonviolent inmates, to serve his sentence at home.

But when Mr. Cohen refused to sign an agreement saying he would not write a book about Mr. Trump while serving his sentence, he was thrown back in prison — a move that a federal judge quickly reversed and ruled to be retaliatory.



Michael D. Cohen, Mr. Trump's former fixer, testifying against him before Congress in 2019. Erin Schaff/The New York Times

The Justice Department sued Stephanie Winston Wolkoff, who had been a friend and adviser to the first lady, Melania Trump, after she published a book that portrayed Mrs. Trump as selfish and image-obsessed. The suit, which sought to recoup Ms. Winston Wolkoff's profits from the book, was dropped by the Justice Department after Mr. Trump left office.

After Ms. Manigault Newman, the former "Apprentice" contestant and Trump aide, announced that she was writing a book about her time in the White House, the Justice Department filed a lawsuit against her citing numerous ethical breaches. She was fined more than \$61,000.

Now, in the final weeks of the 2024 campaign, Mr. Trump is again openly threatening opponents real and perceived with investigation and prosecution should he be elected.

Referring to anyone he feels may cheat or has cheated in seeking to deny him a victory, he took to his social media platform this month to proclaim: “Those involved in unscrupulous behavior will be sought out, caught, and prosecuted at levels, unfortunately, never seen before in our Country.”

Michael S. Schmidt is an investigative reporter for The Times covering Washington. His work focuses on tracking and explaining high-profile federal investigations. [More about Michael S. Schmidt](#)

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