

Lost in a credibility canyon

Commentary

by William H. Freivogel

During the Johnson and Nixon presidencies, the press talked about the credibility gap, first relating to Vietnam and later Watergate.

During the Trump administration there is the credibility canyon.

We begin with a president who has lied more than any other president over such a short time. Armies of fact trackers work overtime on whoppers like President Obama tapping Trump Tower and the phantom millions of fraudulent voters who denied him a popular vote victory.

Yet even this incredible, uncredible president turns out to be more truthful at times than his lawyers.

Trump lawyer Jay Sekulow was entirely unbelievable in his appearances on last Sunday's TV talk shows when he claimed Trump wasn't under investigation for obstruction of justice, while the president himself had tweeted he was under investigation. Sekulow didn't help himself when he began talking about the obstruction investigation as something that was occurring.

https://www.washingtonpost.com/news/the-fix/wp/2017/06/19/trumps-lawyers-very-confusing-sunday-annotated/?hpid=hp_hp-more-top-stories_fix-sekulow-915am%3Ahomepage%2Fstory&tid=a_inl&utm_term=.f7cf02508478

Chris Wallace, the nearest thing Fox has to a professional journalist, called Sekulow on the contradiction and extracted from him the admission he had no way of knowing whether the president is under investigation for obstruction. No one from the special counsel had talked to Sekulow and it is not standard practice to inform a person he is a target at the outset of an investigation.

Sekulow was reprising unfounded comments from a week earlier on ABC's "This Week" when he grossly misstated the testimony of fired FBI director James B. Comey. Sekulow claimed then "it was made very clear from the FBI director on multiple occasions that the president had not been and was not under investigation for obstruction of justice."

In fact, Comey said no such thing. Comey declined to make a conclusion about whether Trump engaged in obstruction of justice, leaving that legal judgment to Special Counsel Robert S. Mueller III. "I don't think it's for me to say whether the conversation I had with the president was an effort to obstruct," Comey testified. "I took it as a very disturbing thing, very concerning, but that's a conclusion I'm sure the special counsel will work towards to what the intention was there and whether that's an offense."

In the week between Sekulow's two appearances, not only had Trump tweeted he was under investigation, but the Washington Post had reported that five unnamed officials said Mueller was pursuing an obstruction investigation of the president. Sekulow, however, was undeterred.

Maybe it's just that the Trump White House believes the president's supporters will believe anything it puts out. Or maybe it's just the bad habit of lawyers thinking they can make an argument for the most spurious assertions.

Sekulow has been a pretty successful advocate on religious freedom issues before the United States Supreme Court. He made

a name for himself arguing his Jews For Jesus organization has a religious right to distribute literature at an airport. Later he claimed Muslims don't have a religious right to build a community center near Ground Zero.

Sekulow once said appearing before the Supreme Court made him feel like Rocky, the heroic prizefighter. But his answers to Wallace were gibberish. He claimed Comey had violated his lawyer-client relationship with Trump, which probably didn't exist because Comey was serving as the nation's top investigator, not its top lawyer.

Sekulow also said Trump had the constitutional power to fire Comey partly because the president was just acting on the recommendation of the Justice Department. But Deputy Attorney General Rod Rosenstein, who wrote a memo criticizing Comey's handling of the Hillary Clinton email investigation, testified the memo was not written to justify Comey's firing.

It was pointed out to Sekulow that Trump himself admitted to having decided to fire Comey before the Rosenstein memo and had been thinking about the Russia investigation at the time he fired him. In fact, it's pretty clear Trump's firing of Comey combined with Comey's account of Trump pressuring him on the Russia investigation are the reasons Rosenstein appointed Mueller as special counsel.

Just as Nixon faced the greatest legal peril for obstructing the investigation of a Watergate burglary he may not have known about, Trump faces greater legal jeopardy for possibly obstructing the Russia investigation than for his aides' contacts with the Russians during the election.