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HARDBALL WITH CHRIS MATTHEWS; June 01, 2018

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Byline: **Chris Matthews**, Nicholas Confessore, John Heilemann, Elise Jordan, Gene Robinson; Heidi Pryzbyla

Guests: Caroline Polisi, Matt Apuzzo, Daniel Goldman; Rick Pildes

Highlight: Trump and his attorneys are now making a sweeping assertion of Presidential power. Trump's lawyers delivered a 20-page letter to special counsel Mueller in January intended to fend off a potential subpoena for the President's testimony. The Supreme Court today ruled in favor of a Colorado baker who refused to make a wedding cake for a same-sex couple.

Body

(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: Well, when the President does it, that means that it is not illegal.

CHRIS MATTHEWS, MSNBC HOST: Wow. Let's play **HARDBALL**.

Good evening. I'm **Chris Matthews** in New York.

To defend the President from the special counsel's investigation, the Trump and his attorneys are now making a sweeping assertion of Presidential power not unlike that you just heard from Richard Nixon. They claim Trump's position gives him unrestrained authority over the justice department, effectively putting the President above the law.

"The New York Times" reported this weekend that Trump's lawyers delivered a 20-page letter to special counsel Mueller in January intended to fend off a potential subpoena for the President's testimony. In that letter, they argue that the President's power over the justice system is so great that he can never be guilty of obstructing justice.

Quote "it remains our position that the President's actions here by virtue of his position as the chief law enforcement officer could neither constitutional naturally nor legally cute obstruction because that would amount to him obstructing himself, and that he could, if he wished terminate the query or even exercise his power to pardon if he so decides."

In other words, he can get rid of the whole Mueller thing if he wants right now or pardon himself completely on anything. In their assessment, the president has the power to administer justice however he sees fit. They assert that the president, this one Donald Trump has the constitutional right to kill a federal investigation, even when it's an investigation of him.

Well, this weekend Trump lawyer Rudy Giuliani backed up that letter's legal claim to such expansive presidential powers. However, he was careful in describing the political risk of using that power.

(BEGIN VIDEO CLIP)

CHUCK TODD, MSNBC HOST, MEET THE PRESS DAILY: You say that he could terminate the inquiry. Does this mean he can terminate any federal investigation? Is that the argument here? Any federal investigation, he can terminate?

RUDY GIULIANI, PRESIDENT TRUMP'S LAWYER: Yes. That is pretty clear. I mean, the power of the attorney general, he is a Presidential appointee. I mean, it could lead to impeachment. If he terminated an investigation of himself, it could lead to all sorts of consequences.

TODD: But constitutionally, you are making the argument that constitutionally, he could is what you're saying?

GIULIANI: I'm saying constitutionally it sure looks that way.

(END VIDEO CLIP)

MATTHEWS: Well, joining me right now is Eugene Robinson, columnist for "the Washington Post" and an MSNBC contributor, Heidi Przybyla, national political correspondent for NBC News, Daniel Goldman, former assistant attorney and Rick Pildes is professor of constitutional law at NYU.

Rick, I want to start with you. I have never heard a President say he is king before, but the fact that he says he can kill any investigation, he can pardon himself, he can do whatever he wants because -- how can he obstruct himself because he is basically legally and constitutionally God. It's an amazing assertion. What do you make? Have you ever heard anybody claim this before?

RICK PILDES, PROFESSOR OF CONSTITUTION, NEW YORK UNIVERSITY: The combination of these positions is an incredible sweeping assertion of Presidential power, and it's certainly inconsistent with the President's obligation under the constitution to take care that the laws be faithfully executed.

So the President would, of course, obstruct justice if he terminated investigations for, example, who had given him campaign contribution or he ordered the government to prosecute only people who had given to his opponent. The President can obstruct justice. Congress can make it a crime if he acts with a corrupt purpose.

MATTHEWS: But, Rick, where are they getting this from? Where are these people, this John Dowd and a whole bunch of these lawyers that Trump has found, this collection of fixer, or whatever they are, they have told him he can't do anything wrong.

PILDES: Well, even Alan Dershowitz, who I think was the originator of this expansive theory recognized limits that the President's lawyers don't. So Alan Dershowitz said of course the President can't bribe witnesses. Of course the President can't tamper with witnesses.

MATTHEWS: Yes.

PILDES: They have said he can do nothing that constitutes obstruction of justice.

My view, and the view of many academics in this area and many criminal defense lawyers is he cannot act for a corrupt purpose. That violates his obligation to execute the laws faithfully.

MATTHEWS: Well, Dan, I heard Nixon. In my sleep I still hear him basically saying to David Frost, if I do it it's got to be legal. It sounds like that's what Rudy and a whole batch of these guys are all saying now, John Dowd, a whole bunch of them on a written 20-page argument that the President is above the law.

DANIEL GOLDMAN, FORMER ASSISTANT U.S. ATTORNEY: They do make that argument. They also make a lot of factual arguments. And I think the important thing for those of us who are concerned about these broad claims is to keep in mind that this letter was written in January. We are now in June. And we are talking still about a potential

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interview. And that was really the truss of the letter, was to try to avoid the special counsel either subpoenaing Trump or making him come in voluntarily.

So the fact that we're still talking about it is an indication that Bob Mueller does not buy the legal argument that the President can do anything nor does he buy the factual arguments underlying the letter.

MATTHEWS: Gene, the old argument in court I understand is if you don't have the facts on your side you go to the law. Then if you don't have either, you start pounding the table. It sounds like they are pounding the table or they are saying they have a higher view of the constitution, meaning the Nixonian view?

EUGENE ROBINSON, COLUMNIST, THE WASHINGTON POST: Yes, it sounds like they think the facts are pretty bad or they don't know all the facts and the President is not telling them all the facts, and so they are making this argument trying to keep him out of the witness chair or out of the interview room with Mueller.

But, you know, this is why we have two other branches of government, right? Because the President is given extraordinary powers, but we have two other branches of government to constrain, define those powers. And so if Mueller subpoenas the President, ultimately, it could be the Supreme Court that could decide whether he has to answer that subpoena if he refuses. If Mueller decides --

MATTHEWS: The silence of the lambs continues. The Republicans in the Congress who lead the Congress, the majority leadership in the Senate have not said a word against this President in what he has been saying. They are not challenging his total claim to total power. They didn't remember Lord Acton saying power tends to corrupt and absolute power corrupts absolutely. That was Republican doctrine when you and I were growing up. They believed in a very limited power of the executive.

ROBINSON: Well, look, Congress is the -- of the equals, of the three equals, it's really first among equals according to many constitutional lawyers in our constitution. But Congress certainly has the power, the ultimate power of impeachment, if it chooses to do so. And if Mueller decides that the President has done something that constitutes a crime and reports that to Congress, then they will have a decision to make, and they have not covered themselves with glory so far. They just -- they are mum.

MATTHEWS: Yes. They are mum.

Heidi, your thought on that? Why -- what good is a constitution if the courts and the Congress don't stand up for their piece of the action. They let the President insist on his total absolute immunity basically from investigation or certainly indictment or certainly even any kind of action against him, any kind of probe they are saying, they have no right.

The President said today they have no right that this is unconstitutional. This very probe being run by Robert Mueller is unconstitutional, as he is claim. Isn't anybody going to speak up in this regard?

HEIDI PRYZBYLA, WHITE HOUSE REPORTER, USA TODAY: Well, that's what they are depending on, **Chris**. This is the entire strategy. If you make the argument that the President's executive powers are so expansive as to knock out the authority of the justice department, you are saying that the only branch of our government that has authority over him is the U.S. Congress.

The U.S. Congress, then, would make a call on impeachment. And this campaign, because it is part of a campaign to discredit the investigation, then would mean everything. Because Congress would decide whether they act or whether they don't act. And I hope that you notice that over the weekend, there was an interesting poll showing just how effective this campaign has been, that 73 percent now of FOX News viewers think that this investigation is a bad investigation. That's why you are seeing people like Kevin McCarthy even refusing to address the issue of whether the President is lying and now saying going along with this argument that we shouldn't be looking at obstruction or the President's lying, and that this is about collusion.

MATTHEWS: He says no collusion. He is reading the lines he is given by the White House.

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Anyway, they all become the Nunes characters up there, guys. Everyone is in the midnight ride of Paul Revere now, back and forth to the White House getting their words to speak.

Anyway, the letter's broad interpretation of presidential power that they got from the lawyers of Trump also appears to say that Trump's lawyers are asserting that the President can pardon himself for potential crimes he may have committed. Here is what a Trump attorney Rudy Giuliani said when asked directly about that. Can the President pardon the President?

(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: Do you and the President's attorneys believe the President has the power to pardon himself?

GIULIANI: He is not, but he probably does. He has no intention of pardoning himself. But he probably does. That's not say he can't. I mean, that's another really interesting institutional question, can the President pardon himself. It would be an open question. I think it would probably get answered by, God, that's what the constitution says and if you want to change it, change it, but yes.

(END VIDEO CLIP)

MATTHEWS: Well, it's not an open question with Mr. Big. President Trump went further today and asserted publicly he does have the ability to pardon himself.

Quote, this is in a tweet, "I have the absolute right to pardon myself, but why would I do that when I have done nothing wrong?"

And here is what Republican senator Chuck Grassley, the chairman of the Senate Judiciary Committee said about that today.

(BEGIN VIDEO CLIP)

SEN. CHUCK GRASSLEY (R), IOWA: If I were President of the United States and I had a lawyer that told me I could pardon myself, I think I would hire a new lawyer.

(END VIDEO CLIP)

MATTHEWS: He is not going to hire a new lawyer. What do you think, Dan? You start on this. Can he pardon himself? Is this imaginable even in the original intent of the first purposes whatever those guys, the Scalia guys believe every word should be taken literally of the constitution.

GOLDMAN: No.

MATTHEWS: Originalists.

GOLDMAN: One of the founding principles of our constitutional democracy is no one can be the judge of himself. And ultimately, if the President were to pardon himself, he would be judging himself. So this runs completely counter.

MATTHEWS: But who told him he could? Because he said it today. Who is telling Trump this stuff?

GOLDMAN: I didn't watch "FOX & Friends" this morning so I'm not sure who told him.

MATTHEWS: Rick, who is telling the President he could pardon himself? Where is he getting this stuff from?

PILDES: Well, I think maybe he got it from Rudy Giuliani who seemed to be kind of doing it spontaneously in that interview.

MATTHEWS: Give us the implications.

PILDES: Yes, exactly.

MATTHEWS: You can do anything you want.

PILDES: The implications of that position would be that the entire structure of the entire constitution would be thrown out. The separation of powers wouldn't mean anything. Congress's laws could be ignored by the President. The courts could be ignored by the President.

MATTHEWS: How about the Fifth Amendment -- I mean, the fifth street, not Fifth Amendment, the fifth street. I can shoot somebody on Fifth Avenue and pardon myself?

PILDES: Yes. This position is inconsistent with the rule of law. It's inconsistent with everything about limited government under the constitution.

MATTHEWS: Are you scared of this President, his view of the constitution? Does it scare you that a President believes that he is godly?

PILDES: You know what I think part of the problem is here? I think the President and his lawyers are mutually reinforcing each other. I think he didn't know much about these boundaries when he comes in. He hears Giuliani say this. It emboldens him to go even further, and they may be walking him into problems. He may act on some of these understandings.

MATTHEWS: Who is Giuliani in court -- Dan, I mean, excuse me, he is a lawyer, I know. But how many times has he practiced law in the last 50 years?

GOLDMAN: From my understanding, I think since he became mayor, he I think had one case that went to court in the last ten years ago or something.

MATTHEWS: He is a rainmaker.

PILDES: He was never an expert in the Presidential powers in the constitution or the separation of powers. That's not what he did.

GOLDMAN: Not only that, but he said he ran the pardon office and he has no idea.

MATTHEWS: Gene, I know this is well, we are getting into summer now, the doldrums. But aren't you amazed? You are chuckling, I know. Aren't you amazed? It is silence of the lambs. Why -- I mean, where is the outrage? Is there anything Trump can say about his powers that will shake up those people in the hill and they will say wait a minute, cool it, Mr. President?

ROBINSON: No, it will not shake them up. It will not make the Republican leadership on the hill say anything because they are all -- they are all looking at the midterm election. They don't want to cross Trump. They don't want to cause trouble for him because he might cause trouble for them and for their attempt to hold on their majorities. And so they are with him. And I don't anticipate that we are going to hear courage coming from the hill.

MATTHEWS: Heidi?

PRYZBYLA: This President has great power over these members right now because at any moment we could go back to last year whether where it was unclear whether he was going to go out and actually campaign against them. I talked just today, ***Chris***, with some Senate Republican rainmakers who said it's really amazing how much coordination there is now between the White House and the Republicans in the Senate in terms of 2018 midterms. There is no way that they are going to go down on a sinking ship by firing on Trump.

MATTHEWS: But what about guys like Kevin McCarthy? Because I heard from somebody who is leading the Congress, those are the only one you can hear from anymore, honestly, a Republican member who is leaving,

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one of the top members in judiciary who has said, you know, you can't -- he is the strongest political force we have ever come across. You can't challenge, you can't challenge this President in the Republican Party, Gene. You can't. It's pretty scary. It is close to Napoleonic law here. One guy calling the shots.

ROBINSON: Well, also, I mean, Kevin McCarthy is not exactly, you know, Seneca on the House floor, right? I mean, he is not great wordsmith or anything like that. And to me, when he was being asked over the weekend again and again to comment on some of this ridiculousness, he seemed like a deer in the headlights.

MATTHEWS: Yes.

ROBINSON: He was kind of didn't know what to say except the White House talking points. He is running for speaker of the House. I don't think he covered himself with glory even within his own caucus this weekend.

MATTHEWS: I got to get back to the attorneys here.

First of all, (INAUDIBLE). Where are we going to end up with a President who believes that he can pardon himself, a President who believes that he is the law and he cannot obstruct himself? Where is this going to end up, in the trash can of history or where?

PILDES: I think it depends on what Robert Mueller's investigation ends up revealing. And if it does reveal serious crimes, then what Congress does in response to that.

MATTHEWS: Who wins this fight? Mueller or Trump? Under the constitution as you view it? Who wins the fight? He says I want to interview you, if you lie, I'm going to prosecute you for perjury. I already think I got you on obstruction and the President says screw you. Who wins the battle of the argument here?

PILDES: So first of all, the President probably has to comply with a subpoena at the end of the day. I think a Supreme Court precedent establishes that.

MATTHEWS: Right.

PILDES: I think it's also very unlikely that Mueller will develop any criminal indictment because the justice department has said for many decades Presidents can't be indicted when they are in office. So it ultimately will go to Congress.

MATTHEWS: Last word. Who win, Mueller or Trump?

GOLDMAN: Well, Mueller win, but I don't think he is going to indict the President. So it's going to go to Congress.

MATTHEWS: OK, thank you. For impeachment?

GOLDMAN: Yes.

MATTHEWS: OK. Thank you, Gene Robinson, Heidi Pryzbyla, Daniel Goldman and Rick Pildes.

Coming up, Trump's lawyers don't want him to testify before special counsel Mueller. And Rudy Giuliani is admitting the reason why. Rudy says it's because our recollection keeps changing. In other words, Trump can't keep his story straight. This is amazing how he changes these stories. I did help my son. Well, I may have done, no. I really did write it for him. I took the test for him. That's ahead.

Plus, the **HARDBALL** round table is here tonight to talk Trump's claimed absolute power.

Plus, Bill Clinton insisting he did everything right during the Monica Lewinsky affair even though he never apologized to her personally.

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And 50 years ago Senator Robert F. Kennedy was shot after winning the California Presidential primary. Would Bobby can't even recognized the country we are living in today. U.S. Congressman John Lewis, an icon of the civil rights movement joins us tonight.

Finally, let me finish tonight with what's missing in American leadership tonight. I think you all know.

And this is **HARDBALL** where the action is.

MATTHEWS: Well, the Supreme Court today ruled in favor of a Colorado baker who refused to make a wedding cake for a same-sex couple. We all know about that case. In a 7-2 decision, the state commission had shown anti-religious bias when it ruled against the baker. The opinion written by Justice Anthony Kennedy was a narrow one meaning that it applied to the specific facts of this case only. It strongly reaffirmed protections for gay marriage and made it clear that similar cases might be decided differently based upon their merits.

Liberal justice Elena Kagan and Stephen Breyer joined the conservatives and issuing the (INAUDIBLE). Justice Ruth Bader Ginsburg and Sonia Sotomayor were in the dissent.

And we will be right back.

MATTHEWS: Welcome back to **HARDBALL**.

There is a stunning admission buried in the letter President Trump's legal team submitted to special counsel Robert Mueller. It's an acknowledgment that Trump's team publicly misrepresented the facts on a key aspect regarding the infamous Trump Tower meeting with a Russian lawyer offered Donald Trump -- who offered Donald Trump Jr. dirt on Hillary Clinton.

For the first time now, Trump's lawyers conceded that the president did in fact dictate "a short, but accurate response to `The New York Times` about that meeting."

This represents a complete reversal from what one of Trump's lawyer and spokesman said last year.

Let's watch.

(BEGIN VIDEO CLIP)

JAY SEKULOW, ATTORNEY FOR PRESIDENT DONALD TRUMP: The statement that was released on Saturday was released by Donald Trump Jr, and I'm sure in consultation with his lawyers. The president wasn't involved in that.

But I do want to be clear the president wasn't involved in the drafting of the statement and didn't issue the statement. It came from Donald Trump Jr., so that's what I can tell you.

SARAH HUCKABEE SANDERS, WHITE HOUSE PRESS SECRETARY: He certainly didn't dictate. But he -- like I said, he weighed in, offer suggestion, like any father would do.

(END VIDEO CLIP)

MATTHEWS: In other words, he didn't do anything. He was helicopter dad. And here is one.

At no point -- or actually at no point did President Trump, Jay Sekulow, his lawyer, or Sarah Sanders ever publicly correct the record.

Well, yesterday, the president's newest lawyer, Rudy Giuliani, was asked about the change in position. Here is what he said.

(BEGIN VIDEO CLIP)

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RUDY GIULIANI (R), FORMER MAYOR OF NEW YORK: Jay would have to answer that. And I have talked to him about it. I think Jay was wrong. This is the reason you don't let the president testify. If every -- our recollection keeps changing, or we're not even asked a question and somebody makes an assumption.

(END VIDEO CLIP)

MATTHEWS: For more, I'm joined by Matt Apuzzo, a reporter with "The New York Times" who helped break the story about the legal memo, and Caroline Polisi, a federal and white-collar criminal defense attorney.

Let's start with the journalism here. It comes out now that Trump really did design the cover-up. He said the whole meeting at Trump Tower was about adoption of Russian babies and all that. Fine. But that's not what they were saying before. Why did they change the story? Do you know?

MATT APUZZO, "THE NEW YORK TIMES": Well, let's be clear.

They didn't change the story. We had to get the legal memo and publish it for anybody to figure it out.

MATTHEWS: Right.

APUZZO: If you go back to last year...

MATTHEWS: They didn't intentionally let the word out that they had changed their story?

APUZZO: No. Nobody was going to correct the record for us.

If you go back to last year, in July, when "The Times" first broke this story, we reported that the president had personally signed off on this statement. And you ran the clips. No, no, no, that's wrong. "The New York Times" is wrong.

And then "The Washington Post" goes even further and says, no, he didn't just sign off on that, he personally dictated that. And then the response was, no, no, no, that's wrong, that's wrong.

And only now in black and white do we say that what they're saying public -- they're publicly, aggressively pushing this one story, while they're privately acknowledging the exact opposite story. And this has been the problem of working as a journalist in Washington, **Chris** -- you know this -- is, you say to them this is what we have got. This is what we're working on.

Oh, we hear you're considering firing Rex Tillerson and replacing him with Mike Pompeo. No, that's fake news. That's a lie, that's a lie, that's a lie. And then, of course, that's exactly what happened.

MATTHEWS: It's an announcement. Then it becomes a presidential announcement.

Caroline, here is the question. Why would they -- it seems to me, if you admit that you colored or described something differently than you believe it was, if you tell the papers, go out publicly and say, you know what, that was just a meeting about adoption -- and we know about the people who have -- we all know people, I think -- I do -- people who have adopted kids from Russia, and it was a tricky thing.

That's all they cared about. And then it turns out it was getting dirt on Hillary Clinton. And that was the purpose of the meeting.

CAROLINE POLISI, DEFENSE ATTORNEY: Right.

MATTHEWS: Is lying publicly like that, and then to come out and say, no, we really were covering up the story, we were really were changing to it look good, we're -- we're -- how does that put you in a position with regard to perjury, with lying to agents, or whatever?

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POLISI: Well, team Trump's stance on -- and it's sad that we have gotten to this point, but it is not a crime to lie to "The New York Times."

It's not a crime to lie to the public. It's not a crime to lie on Twitter. Again, it's sad that that's the level that we're getting to.

MATTHEWS: Is it a lie for the president to admit that he designed a cover- up to cover up his son, that he came up with a nice explanation, a nice alibi why he is meeting with the Russians and why Jared was with him, that it was really about adoption?

Is that a lie when he puts that in a letter to the public?

(CROSSTALK)

POLISI: Well, it certainly is a lie.

(CROSSTALK)

MATTHEWS: To the prosecutors?

POLISI: Yes, it's evidence of his state of mind.

And so Mueller is going to use that as evidence in the larger background of that obstruction case.

MATTHEWS: Can that be a felony -- can that be a felony perjury case to put a 20-page memo to the prosecutor and say this is the truth?

POLISI: If he lies in the memo, if he lies to federal authorities.

MATTHEWS: How about if he admits in the memo that he covered up?

POLISI: No. No, no, no. He is telling the truth in the memo, presumably, that he lied to "The New York Times," which in and of itself is not a crime.

MATTHEWS: Right.

POLISI: So there are layers upon layers here.

But I think what you can glean from this 20-page letter that was just released is that the Trump legal team is really not so focused on legality. In fact, they cited the wrong obstruction statute in that letter. They just got it wrong. It was an outdated statute.

They are more focused at this point on impeachable offenses. So, if you draw a Venn diagram of criminal offenses vs. impeachable offenses...

MATTHEWS: OK. Again, I...

POLISI: No, they're focused on the P.R. aspect.

(CROSSTALK)

MATTHEWS: Let me start as Matt, as the journalist, and then we will get back to the lawyer here.

POLISI: Yes. Yes.

MATTHEWS: I'm sorry, Caroline. You're the defense lawyer.

It seems to me, if they admit that they came up for an alibi for the meeting at Trump Tower, to me, the most egregious, obvious case of collusion, that they had to come up with -- the father had to cover for the son, basically said, OK, my son screwed up, he shouldn't have had the meeting, it was about getting dirt on Hillary, but I'm going to say it was about Russian adoptions, is -- that -- and then send that information to the prosecutor.

Is that a crime -- admitting a crime, rather? Is that admitting a crime, a cover-up, an alibi, a lie?

APUZZO: Look, I wish that we had some way to hold people in the public square accountable for lying to "The New York Times."

MATTHEWS: No, but lying to the prosecutor.

APUZZO: Unfortunately, it happens too often.

No, I don't think...

(CROSSTALK)

MATTHEWS: I should say admitting to the prosecutor that you cooked up an alibi for that meeting.

APUZZO: No, I don't think -- look, I haven't seen any evidence that that in and of itself is a crime.

I think what Mueller wants to know, why were you cooking up a story and why were you pushing so hard that the president wasn't involved?

MATTHEWS: Yes.

APUZZO: And is that part of something bigger? Is that one piece of a larger obstruction thing? It wouldn't be an element of a crime, but it could speak to -- as we were talking about, it could speak to the president's mind or his intention.

Well, lastly back to you, Caroline, because the president of the United States is now admitting in a letter to the prosecutors that he basically came up with an alibi for his son when his son was actually dealing with getting dirt from the Russians to use in the campaign.

POLISI: Right.

And we have known that for a while now. This could be more appropriate when you look at Donald Trump in the context of, look, who can indicted in this whole Russia investigation? We know...

MATTHEWS: Well, Jr.

POLISI: That's what I'm saying.

So, we know that Trump and Mueller are both operating under this Office of Legal Counsel idea that you can't indict a sitting president, which is why in a lot of cases the nitty-gritty of meeting the elements of an obstruction of justice claim aren't necessarily that important at this time.

But it could definitely be important when it comes to Don Jr., and then, who knows, maybe Trump will pardon him.

MATTHEWS: Well, Nixon wasn't indicted. He was just kicked out the back door.

Anyway, thank you, Matt Apuzzo. Great reporting, as always.

APUZZO: Thanks, **Chris**.

MATTHEWS: And Caroline Polisi.

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Up next, the **HARDBALL** Roundtable is here to tackle the big stories of the day, including Trump's claim that he has the absolute right to pardon himself, his snub late tonight at the Super Bowl champion Philadelphia Eagles. They're not coming to see him.

This is really something. The Eagles, as we say in Philadelphia, are not coming to see this president. Apparently, he doesn't want to see them unless he sees them all.

As well as that exclusive NBC interview this morning with Craig Melvin in which Clinton, Mr. Bill, defends his response to the Monica Lewinsky event.

This is **HARDBALL**, where the action is.

(BEGIN VIDEO CLIP)

DONALD TRUMP, PRESIDENT OF THE UNITED STATES: They say, I have the most loyal people. Did you ever see that? Where I could stand in the middle of Fifth Avenue and shoot somebody, and I wouldn't lose any voters, OK? It's like incredible.

(LAUGHTER)

(END VIDEO CLIP)

MATTHEWS: Shoot somebody. How do you talk like that?

Welcome back to **HARDBALL**.

President Trump famously said he could shoot someone on the streets of New York, Fifth Avenue specifically, and not lose votes. Well, yesterday, his lawyer Rudy Giuliani made the astonishing claim that even if Trump had shot his former FBI Director James Comey, he couldn't be indicted for it.

And today President Trump tweeted: "As has been stated by numerous legal scholars, I have the absolute right to pardon myself."

That's the president of the United States talking.

It's a view of the presidency imbued with absolute power that raises the specter of a constitutional question or crisis even.

For more let's bring in the Roundtable tonight. John Heilemann, of course, is executive producer of "The Circus" on Showtime, Elise Jordan, former aide to George W. Bush and a contributor to "TIME" magazine, and Nicholas Confessore is a political reporter for "The New York Times." All three are MSNBC analysts.

I want to start with that presidential assertion.

Why is the president flipping out and going all the way with this I can do anything I want, I can pardon myself and, by the way, I can kill this investigation if I want to at any time, it's my game?

JOHN HEILEMANN, MSNBC POLITICAL ANALYST: Well, there's a question of...

MATTHEWS: Why is he doing it?

HEILEMANN: There's a question of strategy. There's a question of tactics. And there's a question of the visceral emotion of it.

I think for the last month, as you have watched the president's behavior and the people around him's behavior, there is an increasing sense of panic setting in. I think there is not -- there may be a strategy and there may be

tactics. And there are things they are trying to do to try to move this out of the legal realm and into the political realm and try to make it a politic argument.

But everything that Trump is doing, just the kind of essence of it, suggests not just projection of guilt, but that he feels the net is closing in around him...

MATTHEWS: That's what I believe.

HEILEMANN: ... on the Mueller side and the Michael Cohen side, that there are two fronts to this battle now that are intertwining increasingly, and that he knows they are getting close.

MATTHEWS: I agree completely, because back 100 years ago, when I began following some of this stuff, when Reagan lost that first debate with Mondale, and everybody thought he had lost it, Lee Atwater, this brilliant genius, said, if we lose the second debate, we got to have with -- turn on the fog machine.

And, basically, it was to say, forget all the facts. Whose side you on? It sounds like that's the strategy that John just laid out.

ELISE JORDAN, MSNBC POLITICAL ANALYST: Well, because, for different periods, Trump would show a modicum of self-control, not a ton, but a teensy bit.

And now that has just really gone out the window. The impulsivity level of tweeting that, yes, I could pardon.

(CROSSTALK)

MATTHEWS: Does he have any real lawyers left, or are they just flacks?

JORDAN: Well, it doesn't matter if he has real lawyers, because he doesn't listen to them and he doesn't want to.

MATTHEWS: Nick, I just think it's crazy to go out -- although I said before on the show silence of the lambs. Mitch McConnell is not complaining. None of the Republicans in the House -- the speaker is not -- the speaker is a constitutional officer.

He is not questioning this guy's right to basically run the country like George III.

NICHOLAS CONFESSORE, MSNBC CONTRIBUTOR: Look, President Trump is daring Congress and daring his own party to hold him accountable.

He is saying that, if you don't like it, you can impeach me. That's it. That's all you can do.

MATTHEWS: No matter what they come up with.

CONFESSORE: I have all the power.

That's basically his proposition in these tweets and in the long memo his lawyers have written.

MATTHEWS: Well, here we go again.

Oh, go ahead.

HEILEMANN: But just -- here is the uncomfortable thing about it for a lot of Democrats, as you watched a couple of stories intertwine today. You have Bill got Clinton, who is making this argument, reminding us of his impeachment battle by saying, basically, I won because two-thirds of the country was with me.

Two-thirds of the country is not with Donald Trump, but his argument was an appeal to politics. Forget about whether I perjured myself. The country was with me because they thought this was illegitimate.

Trump took the lesson...

MATTHEWS: We will get to that in a moment.

(CROSSTALK)

HEILEMANN: He took the lesson from Clinton, and he is applying it now.

MATTHEWS: You have opened up that. We will go to it in one minute. We have to stick to our plan here.

(CROSSTALK)

HEILEMANN: Sorry.

MATTHEWS: No, you're entitled to be wrong.

(LAUGHTER)

MATTHEWS: In a statement just a short time ago, President Trump said the Super Bowl champion Philadelphia Eagles are -- quote -- "unable to come to White House with their full team to be celebrated tomorrow. They disagree with their president, their president because he insisted they proudly stand for the national anthem hand on heart in honor of the great men and women of our military and the people of our country. The Eagles wanted to send a smaller delegation, but the 1,000 fans planning to attend the event deserve better.

"These fans are still invited to the White House to be part of a different type of ceremony, one that will honor our great country, pay tribute to the heroes who fight to protect it, and loudly and proudly play the national anthem."

According to NBC News, a person familiar with the planning said a large number of the players of the Eagles said they were not going to attend and the White House decided no one from the team would be attending, but fans are still welcome.

Elise, again, it's a question about the flag. What is it, patriotism is the last resort of a scoundrel? I'm sure the president -- well, maybe he is a scoundrel, but here we go.

JORDAN: Well, Donald Trump will never pass up the opportunity for a good culture war. And that's what it is. Right now, he feels the Russia investigation news closing in. And so why not talk about football, talk about the national anthem, talk about standing up?

That's a better argument for him right now.

MATTHEWS: Why doesn't anybody want -- why would anybody want to live in a country where you have to put your hand on your chest? I do it. Most of us do it.

We should. I think we should do it. But when you are required to do it, what could it possibly mean if it's required?

CONFESSORE: Zero.

But the whole point of this is to engage in an act of political theater. He is saying, it's not me they are rejecting, it is America, when, in fact, in fact these players don't like President Trump.

(CROSSTALK)

CONFESSORE: And they're not going to the White House because they disagree with him personally.

The president is shifting it and saying it's an offense to the country.

HEILEMANN: It's the same strategy again as the first one, us vs. them. Which side are you on? Are you on my side? Are you on the country's side? Patriotism. Are you against -- with me or with them?

(CROSSTALK)

MATTHEWS: I have been watching the NBA playoffs.

(CROSSTALK)

MATTHEWS: ... and LeBron are all watching this. They're watching television. And they're going, wait a minute, we're fighting for a championship. But, at the end of it all, we're going to be voted on whether the president is going to decide if we show up the right way.

Anyway, Bill Clinton -- you raised that question -- has been making the rounds today...

HEILEMANN: Those guys weren't going to go anyway, by the way.

MATTHEWS: ... promoting a new book he co-wrote.

And in a tense interview with NBC's Craig Melvin this morning, the former president said he would not have changed how he handled the Monica Lewinsky matter, even in light of the MeToo movement.

Let's watch the former president.

(BEGIN VIDEO CLIP)

CRAIG MELVIN, MSNBC CORRESPONDENT: Looking back on what happened then, through the lens of MeToo now, do you think differently or feel more responsibility?

BILL CLINTON, FORMER PRESIDENT OF THE UNITED STATES: No, I felt terrible then, and I came to grips with it.

MELVIN: Did you ever apologize for it?

CLINTON: Yes. And nobody believes that I got out of that for free. I left the White House \$16 million in debt.

MELVIN: But you didn't apologize to her.

CLINTON: I have not talked to her.

MELVIN: Do you feel like you owe her an apology?

(CROSSTALK)

CLINTON: No. I do -- I do not -- I have never talked to her. But I did say publicly on more than one occasion that I was sorry.

That's very different. The apology was public.

I dealt with it 20 years ago-plus. And the American people, two-thirds of them stayed with me, and I have tried to do a good job since then with my life and with my work. That's all I have to say to you.

(END VIDEO CLIP)

MATTHEWS: You know, Elise, I don't know if it's fair or not, but it was a question he was asked, and it just lingered on, the answer. It just took a long time to get an answer.

JORDAN: It was absolutely fair. And it's shocking that it took over two decades for him to be asked this question.

MATTHEWS: Right.

JORDAN: And if that is his response, his angry response...

MATTHEWS: What was his response, cogently stated? What was the bottom line? It cost me \$16 million? I'm a victim?

JORDAN: I was the victim. I was the victim. I was the one who was put in this horrible position, in this unfair investigation that went too far, and this was so unfair, but the American public didn't care because they liked me.

MATTHEWS: To put that, Nick, in commercial terms does put him in that racket, sort of the Trump racket, what, \$130,000? Why would he bring in money in regard to a very unpleasant affair that nobody really was proud of?

CONFESSORE: Look, I think, based on his statement there, the president is conflating and can't really separate the politics of the impeachment from his own behavior.

He wasn't asked a question about if it was OK to impeach him for this. He was asked a question by Craig Melvin about his behavior.

MATTHEWS: Right.

CONFESSORE: And the proper response was, it was wrong, and I apologized to her, and I will apologize to her again right now.

But, instead, he made it a political argument, that the American public sided with him on the impeachment battle. So...

(CROSSTALK)

MATTHEWS: Well, what would you have done? What would you have -- isn't that the smart move?

CONFESSORE: I would apologize. I would apologize.

MATTHEWS: OK. He should have just done it over again?

HEILEMANN: The president apologized publicly at the time. He went on national television and said: I'm a sinner. I apologize to the country. I apologize to Monica Lewinsky and her family. He said it.

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