

IN STORY PURPORTING TO “RECKON” WITH STEELE’S BASELESS INSINUATIONS, CNN SPREADS DURHAM’S UNSUBSTANTIATED INSINUATIONS

Deep in a CNN report purporting to “reckon” with the Steele dossier, Marshall Cohen claims that “The Mueller report said there wasn’t evidence of a criminal conspiracy to collude.”

This thirteen word sentence has a number of errors. Mueller explicitly noted that “collusion is not a specific offense or theory of liability found in the United States Code, nor is it a term of art in federal criminal law,” so it would be impossible to engage in a criminal conspiracy to collude. The Mueller Report further noted that, “A statement that the investigation did not establish particular facts” – such as the finding that, “the investigation did not establish that members of the Trump Campaign conspired or coordinated with the Russian government in its election interference activities” – “does not mean there was no evidence of those facts.” The actual crimes for which there was evidence, but insufficient to prove beyond a reasonable doubt, were:

- Serving as an unregistered foreign agent of Russia
- Criminal campaign finance violation
- Conspiring in the hack-and-leak operation
- Conspiring to obstruct a

lawful government function

In fact, a footnote declassified days before the 2020 election revealed that, “some of the factual uncertainties,” about whether Roger Stone participated in the hacking conspiracy, “are the subject of ongoing investigations that have been referred by this Office to the D.C. U.S. Attorney’s Office,” meaning that the investigation into whether Stone conspired with Russia in 2016 remained ongoing after Mueller finished work.

Additionally, the declinations section specifically says that multiple individuals told lies that obstructed the investigation into whether the contacts between the campaign and Russia violated criminal law. If George Papadopoulos hadn’t lied about telling the campaign about the Russian help, if Michael Cohen hadn’t lied about an impossibly lucrative real estate deal in Moscow, if Roger Stone hadn’t lied about how he optimized the email release (and how many times he spoke to Trump about it), if Paul Manafort hadn’t lied about swapping campaign strategy for \$19 million in debt relief, and if Mike Flynn hadn’t lied about undermining sanctions, Mueller might have obtained evidence to prove a conspiracy beyond a reasonable doubt.

Mistaking not having *enough* evidence to prove a conspiracy beyond a reasonable doubt and not having evidence *at all* is a common error, though more typical coming from those who publish fawning interviews with Konstantin Kilimnik repeating his assurances he’s not a Russian spy.

But it matters in this piece for the way Cohen airs insinuations that John Durham made for which Durham doesn’t, apparently, have enough evidence to prove something beyond a reasonable doubt (and which probably wouldn’t even be crimes).

Cohen starts by asserting, as fact, that “Democratic involvement in Steele’s work was much deeper than previously known,” in the same

paragraph where he notes that Charles Dolan has been accused of no crime.

But Democratic involvement in Steele's work was much deeper than previously known. Court filings from the Durham inquiry recently revealed that some information in the dossier originated from Charles Dolan, 71, a public relations executive with expertise in Russian affairs who had a decades-long political relationship with the Clinton family. He has not been accused of any crimes. [my emphasis]

Cohen continues to describe Dolan's involvement in four more ways that don't involve any crime by Dolan: That Dolan was in regular contact with Danchenko (which Danchenko didn't deny), that Dolan was "indirectly connected" to the pee tape, and that "Dolan was also indirectly linked" to a claim about a Russian diplomat being reassigned, and that Dolan lied to Danchenko – about his source for a true report – at a time Dolan knew nothing of the specifics of the Steele project.

Federal prosecutors said Dolan was in regular contact in 2016 with Steele's primary source Igor Danchenko, 49, a Russian citizen and foreign policy analyst who lives in Virginia. Danchenko was indicted on November 4 for allegedly lying to the FBI about his dealings with Dolan and a fellow Soviet-born expat that he claimed was one of his sources.

Danchenko pleaded not guilty last week. In a statement to CNN, his defense attorney Mark Schamel said Durham is pushing a "false narrative designed to humiliate and slander a renowned expert in business intelligence for political gain." Schamel also accused Durham of including legally unnecessary information in the 39-page indictment to smear Danchenko.

“For the past five years, those with an agenda have sought to expose Mr. Danchenko’s identity and tarnish his reputation while undermining U.S. National Security,” Schamel said. “...This latest injustice will not stand. We will expose how Mr. Danchenko has been unfairly maligned by these false allegations.”

The indictment indirectly connected Dolan to the infamous claim that Russia possessed a compromising tape of Trump with prostitutes in Moscow, which became known as the “pee tape.” (Trump and Russia both denied the allegations.) According to the Danchenko indictment, in June 2016, Dolan toured the Ritz-Carlton suite where the alleged liaison occurred, and discussed Trump’s 2013 visit with hotel staff, but wasn’t told about any sexual escapades. It’s still unclear where those salacious details that ended up in the dossier came from.

Dolan was also indirectly linked in the indictment to still-unverified claims about Russian officials who were allegedly part of the election meddling. The indictment also suggested that Steele’s memos exaggerated what Dolan had passed along to Danchenko.

The indictment also says the dossier contained a relatively mundane item about Trump campaign infighting that Dolan later told the FBI he actually gleaned from news articles. Prosecutors say Dolan even lied to Danchenko about where he got the gossip, by attributing it to a “GOP friend” who was “a close associate of Trump.” [my emphasis]

Importantly, for only the last of these dossier reports is Dolan specifically alleged to be a source in the dossier (and, again, Dolan credibly claimed not to know why Danchenko was

asking for dirt on Trump). The rest are introduced into the indictment in part by claiming Danchenko – who admitted he and Dolan “talked about ... related issues” – lied in part to hide that Dolan, “was otherwise involved in the events and information described in the reports.”

But the two examples that Cohen treats as news – the pee tape and the reassigned diplomat (there’s a third included involving Sergei Ivanov’s removal) – are laid out in the indictment as *materiality arguments*, not accused crimes that Durham thinks he can prove beyond a reasonable doubt. They’re the things Durham claims Danchenko hid by purportedly lying about whether he had done more than speak to Dolan about related topics. There’s no reason to believe that FBI – which had 702 collection showing extensive ties between Dolan and Danchenko’s Russian source Olga Galkina, undoubtedly including some of the communications Durham relies on in the indictment – ever asked Danchenko whether Dolan was the source for the one report Durham claims Dolan was the source for, much less the three where Durham imagines he had some other kind of role in. (I have noted that Durham *appears* to have misrepresented the question that led into this answer; it seems to have been whether Dolan served as a source for Steele, not Danchenko.) Durham presents the damage from Danchenko’s claimed lie in terms of questions that the FBI, even sitting on those communications, might have asked, but did not.

Here’s how it looks on the pee tape.

Based on the foregoing, DANCHENKO’s lies to the FBI denying that he had communicated with PR Executive-I regarding information in the Company Reports were highly material. Had DANCHENKO accurately disclosed to FBI agents that PR Executive-I was a source for specific information in the aforementioned Company Reports regarding Campaign Manager-1 ‘s departure from the

Trump campaign, see Paragraphs 45-57, supra, the FBI might have taken further investigative steps to, among other things, interview PR Executive-I about (i) the June 2016 Planning Trip, (ii) whether PR Executive-I spoke with DANCENKO about Trump's stay and alleged activity in the Presidential Suite of the Moscow Hotel, and (iii) PR Executive-1 's interactions with General Manager-I and other Moscow Hotel staff. In sum, given that PR Executive-I was present at places and events where DANCENKO collected information for the Company Reports, DANCENKO's subsequent lie about PR Executive-1 's connection to the Company Reports was highly material to the FBI' s investigation of these matters.

As I've noted, one likely, and damning, scenario (Durham presents no evidence that he knows what actually did happen) is that Danchenko used the details Dolan told him about the Ritz tour to flesh out the pee tape rumor he attributed to Sergey Abyshev, with whom he met and drank on the same day, using the names of the Ritz staffers without interviewing them. But even if that's what happened, there's no hint that Dolan provided this information wittingly as part of an effort to hurt Trump (and even if it was gossip about Trump, it would not be a crime).

Effectively, Durham is arguing it is more important for the FBI to find out if unwitting Democrats provided information for the dossier – and Durham's fleshed out his claims that Dolan played a role in several of the other reports precisely based on *the accuracy* of what Dolan had learned from high ranking Russians, not on any claim he was making rumors up – than Russians with ties to the intelligence services feeding deliberate disinformation. If Dolan's involvement was unwitting, there could be no conspiracy to defraud the government, not even if Danchenko knew his reports were being shared

with the FBI, which Durham doesn't claim he did.

Again, this entire indictment treats unwitting Democrats as more dangerous adversaries than Russians deliberately trying to intervene in America's election.

By presenting his other Dolan claims as materiality arguments, then, Durham manages to insinuate things – things that aren't even crimes – without having solid evidence behind them. And he does so in an indictment that doesn't cut-and-paste quotations faithfully and relies on Sergei Millian's Twitter feed for a key claim of fact.

And Cohen allows himself – in a piece talking about how foolish it was for the press to repeat the sloppy insinuations from the dossier – to serve as a mouthpiece for Durham's unsubstantiated insinuations.

There are other errors in this piece. One that bears notice – because it's another case where Cohen got fooled – is where he claims that Galkina disclaimed being a source for a claim that was attributed to her.

Another Russian who Danchenko told the FBI was one of his sources said in a sworn affidavit in a civil case that she wasn't the source for at least one claim that was attributed to her. The woman, publicist Olga Galkina, said she believes Danchenko told the FBI she was his source "to create more authoritativeness for his work," according to court filings.

That's false. The only thing that Galkina disclaimed being a source for in her declaration was the Alfa Bank story. As I laid out here, in his public interview report, Danchenko associates that report, but does not attribute it, to his drinking buddy, Sergey Abyshev. The declarations from Danchenko's other sources in that docket, including Galkina's, were just legal smoke and mirrors (and a way to get those

names before Durham and frothy right wingers). The fact that Galkina stated that, “Mr. Danchenko and I did not discuss anything related to the Dossier or its contents during,” a March 2016 meeting in the US where Danchenko introduced her to Dolan, a meeting which preceded the dossier project by months, is a glaring sign that this declaration is a non-denial denial. So, too, is her suggestion that she could only have shared information face to face when Danchenko told the FBI he sourced his stories to her over phone calls.

The dossier has been shown to be full of unsubstantiated insinuations. And Marshall Cohen’s approach to reckoning with CNN’s past magnification of those unsubstantiated insinuations was to treat ones Durham included in the Danchenko indictment just as credulously.

Danchenko posts

The Igor Danchenko Indictment: Structure

John Durham May Have Made Igor Danchenko “Aggrieved” Under FISA

“Yes and No:” John Durham Confuses Networking with Intelligence Collection

Daisy-Chain: The FBI Appears to Have Asked Danchenko Whether Dolan Was a Source for Steele, Not Danchenko

Source 6A: John Durham’s Twitter Charges

John Durham: Destroying the Purported Victims to Save Them

John Durham’s Cut-and-Paste Failures – and Other Indices of Unreliability

Aleksej Gubarev Drops Lawsuit after DOJ Confirms Steele Dossier Report Naming Gubarev’s Company Came from His Employee

In Story Purporting to “Reckon” with Steele’s Baseless Insinuations, CNN Spreads Durham’s Unsubstantiated Insinuations

On CIPA and Sequestration: Durham's Discovery
Deadends

The Disinformation that Got Told: Michael Cohen
Was, in Fact, Hiding Secret Communications with
the Kremlin