

# EIGHT THINGS NOT MENTIONED IN THE DURHAM REPORT

There are a whole lot of gaping holes in the Durham Report (my Twitter thread on the report is here; here's a ThreadReader version). Here are eight of the most important things that Durham chose to leave out of his report on his four-year investigation.

## 1. All mention of the Italian referral on Trump.

In January, NYT reported on the many problems with the Durham investigation, none of which shows up in his report. Most importantly, NYT reported that on a trip to Italy, the Italians gave Bill Barr and Durham a tip about crimes Trump may have committed.

On one of Mr. Barr and Mr. Durham's trips to Europe, according to people familiar with the matter, Italian officials – while denying any role in setting off the Russia investigation – unexpectedly offered a potentially explosive tip linking Mr. Trump to certain suspected financial crimes.

Mr. Barr and Mr. Durham decided that the tip was too serious and credible to ignore. But rather than assign it to another prosecutor, Mr. Barr had Mr. Durham investigate the matter himself – giving him criminal prosecution powers for the first time – even though the possible wrongdoing by Mr. Trump did not fall squarely within Mr. Durham's assignment to scrutinize the origins of the Russia inquiry, the people said.

Mr. Durham never filed charges, and it remains unclear what level of an investigation it was, what steps he took, what he learned and whether anyone at the White House ever found out. The extraordinary fact that Mr. Durham

opened a criminal investigation that included scrutinizing Mr. Trump has remained secret.

By regulation, there should be some investigative result from this investigation in Durham's report. It's not in there.

**2. All mention of the conspiracy theories Durham and Barr chased in Europe.** The first year or so of the Durham investigation, Bill and John spend traipsing around the world chasing the conspiracy theories George Papadopoulos had floated in a 2018 House Oversight appearance. Barr has confessed they found nothing. But Durham doesn't do that – or even mention the conspiracy theories – in his report. That's important for a number of reasons: because Durham asserts that Congress should have no say in criminal investigations even though they dictated the initial direction of his own, because (as I'll show) Durham badly whitewashes everything having to do with Papadopoulos, and because Durham also doesn't mention the investigative steps he failed to take while running off to Italy to get Joseph Mifsud's blackberries.

**3. Durham's own investigative failures.** I've written at length about how Durham's own investigative failures make anything Crossfire Hurricane did look tame by comparison. He failed to get relevant information from DOJ IG or ask Jim Baker to check his iCloud for what happened to be texts proving Michael Sussmann's defense until after he indicted Sussmann. He never interviewed Papadopoulos, indicted Danchenko relying on what Sergei Millian said on Twitter, and then failed to obtain the messaging app evidence he would need to disprove a call between Millian and Danchenko. Durham focuses, at length, on steps he speculated the FBI didn't take on the Carter Page FISC, but he had more egregious failures to pursue what turned out to be exculpatory information.

**4. The Trump Tower Moscow deal.** In a footnote,

Durham concedes there are things that the FBI later found that corroborated ties between Trump and Russia that weren't known when the investigation was opened. The only example he provides, however, is the June 9, 2016 meeting in Trump Tower in New York.

There were also at least some activities involving the Trump campaign and Russians that did not become public, and were not known to the FBI, until much later. For example, on June 9, 2016, senior representatives of the campaign met briefly with a private Russian lawyer, Natalia Veselnitskaya, and others at the Trump Tower. Mueller Report at 110, 117. Veselnitskaya "had previously worked for the Russian government and maintained a relationship with that government throughout this period of time." Id. at 110. The initial email to Donald Trump Jr. proposing the meeting said that the Crown prosecutor of Russia was offering to provide the campaign with documents and information that would incriminate Clinton. Id. The meeting at the Trump Tower only became public over a year later. Id. at 121.

Durham leaves out many others – like Manafort sharing campaign strategy and Trump having Manafort order Roger Stone to reach out to WikiLeaks. But because Durham focuses closely on Dmitry Peskov's role in the Steele dossier and a brief nod he makes towards Russian disinformation in it, Durham's silence about Michael Cohen's January 2016 conversation with Dmitry Peskov's office asking for help on a Trump Tower Moscow deal, using sanctioned banks and a former GRU officer as broker, is the most damning. Olga Galkina and Charles Dolan's ties to Peskov – an interminable focus of this report – are important *especially because* Peskov was the one person in Russia who undeniably knew that Cohen had made a secret call to Russia during the campaign that both he and Trump were

lying to cover up. Yet Durham simply ignores that critical context.

**5. Konstantin Kilimnik's name.** Not only did Durham fail to mention most of the most damning things that Trump and his flunkies did, he also failed to mention some of the key people they did them with. None is more important than Konstantin Kilimnik, with whom Paul Manafort conspired to cover up his past pro-Russian Ukraine lobbying, to whom Manafort provided campaign strategy at a meeting where they also discussed millions in debt relief for Manafort, and about which meeting Amy Berman Jackson found Manafort had lied to prosecutors. Kilimnik is important for two reasons. First, Durham nods to the potential role of "Oligarch 1," whom he doesn't reveal was Oleg Deripaska, in disinformation in the dossier. He also confirms that Christopher Steele was working for Deripaska earlier in 2016 (in which discussion Durham does name the now-sanctioned Oligarch). But Durham never mentions that Manafort had direct ties to Deripaska through Kilimnik. And Durham repeatedly claims that, because the Intelligence Community had no record of ties between Trump and Russian intelligence services when the FBI opened Crossfire Hurricane, it's proof the FBI shouldn't have opened the investigation. Of course, the IC has since concluded that Kilimnik shared that campaign information from Manafort with Russian spooks and that he is himself a spook. Thus, the IC's failures to identify Kilimnik's intelligence ties (and those of other people more loosely tied to Russia and Trump) is not a reflection, *at all*, of the merit of the investigation, but instead a mark of the IC's own failures in advance of the operation.

**6. Description of Guccifer 2.0's initial releases.** Unlike Kilimnik, Durham at least *mentions* Guccifer 2.0, the persona GRU officers created as a cut-out through whom to release some of the files they stole. But Durham only mentions the persona in a discussion of what he calls a Clinton Plan to impose a political cost

on Trump for cozying up to Russia.

Per FBI verbal request, CIA provides the below examples of information the CROSSFIRE HURRICANE fusion cell has gleaned to date [Source revealing information redacted]: [] An exchange ... discussing US presidential candidate Hillary Clinton's approval of a plan concerning US presidential candidate Donald Trump and Russian hackers hampering US elections as a means of distracting the public from her use of a private email server. According to open sources, Guccifer 2.0 is an individual or group of hackers whom US officials believe is tied to Russian intelligence services. Also, per open sources, Guccifer 2.0 claimed credit for hacking the Democratic National Committee (DNC) this year.

There's much that is downright noxious about Durham's treatment of his so-called Clinton Plan. But he fails to distinguish the treatment of whatever report this intelligence made of Guccifer 2.0 and the allegation about Hillary, including when discussing its briefing and dissemination. More problematic still, Durham claims that all this only happened in late July 2016, even though the Democrats identified the hack and its attribution, Guccifer 2.0 started releasing stolen files, and (per Rick Gates, at least) Roger Stone entered discussions with the persona about advance releases in mid-June. Durham's silence (aside from this quotation) about Guccifer 2.0 not only serves his criminalization of Hillary's response to being victimized by a nation-state attack, but it permits him to craft a completely false timeline on which his Clinton Plan conspiracy theory depends.

**7. The biased FBI Agent running the Clinton Foundation informant.** Durham engages in a good deal of false comparisons between how Hillary was treated and how Trump was. Most fall apart.

For example, he points to a defensive briefing Hillary got in a different foreign influence investigation to claim that Trump should have gotten a defensive briefing in the Crossfire Hurricane investigation. But his own report shows she didn't get that briefing until around ten months into the investigation; less than six months into the Russia investigation, Trump got a briefing, about Mike Flynn. Durham's comparisons of the conduct of the Clinton Foundation investigation and Crossfire Hurricane are even more strained, since he engages in no reflection of how shoddy Clinton Cash was, which (unlike the Steele dossier here) was part of that predication. Nor does he contemplate the rampant leaking, during the campaign, about that investigation. Most dishonest, however, is Durham's silence about the single informant run during 2016 known to be handled by biased agents, one targeting Clinton Foundation described in the Carter Page IG Report.

We reviewed the text and instant messages sent and received by the Handling Agent, the co-case Handling Agent, and the SSA for this CHS, which reflect their support for Trump in the 2016 elections. On November 9, the day after the election, the SSA contacted another FBI employee via an instant messaging program to discuss **some recent CHS reporting regarding the Clinton Foundation** and offered that "if you hear talk of a special prosecutor .. .I will volunteer to work [on] the Clinton Foundation." The SSA's November 9, 2016 instant messages also stated that he "was so elated with the election" and compared the election coverage to "watching a Superbowl comeback." The SSA explained this comment to the OIG by saying that he "fully expected Hillary Clinton to walk away with the election. But as the returns [came] in ... it was just energizing to me to see ... [because] I didn't want a criminal to be in the White House."

On November 9, 2016, the Handling Agent and co-case Handling Agent for this CHS also discussed the results of the election in an instant message exchange that reads:

Handling Agent: "Trump!"

Co-Case Handling Agent: "Hahaha. Shit just got real."

Handling Agent: "Yes it did."

Co-Case Handling Agent: "I saw a lot of scared MFers on ... [my way to work] this morning. Start looking for new jobs fellas. Haha."

Handling Agent: "LOL"

Co-Case Handling Agent: "Come January I'm going to just get a big bowl of popcorn and sit back and watch."

Handling Agent: "That's hilarious!" [my emphasis]

This exchange is similar to the texts that Durham uses to implicate Peter Strzok, Lisa Page, or Kevin Clinesmith. But in this case, this agent was directly handling an informant targeting the actual candidate during the election.

**8. The response to Mike Flynn's lies about Sergey Kislyak.** In retrospect, another significant thing missing from this report is the investigation into how, in early 2017, the FBI responded to Mike Flynn's lies about speaking with Sergey Kislyak. We know that Durham did investigate this. Much of what he investigated was handed to Jeffrey Jensen to launder into the effort to overturn the Flynn prosecution. But Durham doesn't even whitewash the ultimate charges against Flynn, as he does, to hilarious effect, with George Papadopoulos. There's nothing more than a passing reference to discomfort from investigators that could pertain to this investigative effort. I'm not sure what

to make of its absence. It's possible it was too closely related to the blow-up with Nora Dannehy. Possibly, the interim report the team drafted without her knowledge focused on Flynn and she debunked it, meaning there's a prosecutorial judgment somewhere that undermines the claims Barr and others made. Possibly, the games Barr played after that – including the release of a Bill Barnett 302 that conflicted in key ways with the public record – have made those claims untenable. Whatever the reason, its absence in this report is notable.

There's a lot more that's missing from this report. But if Durham were to fill just a few of these critical gaps, the whole thing would crumble.

Update: Added an eighth missing item, the Mike Flynn prong of the investigation. Subsequently fixed Jensen's first name.