

WHO TOLD CARTER PAGE THAT JAMES WOLFE WAS THE SOURCE OF THE FISA LEAK?

Carter Page made it clear to James Wolfe that he believed he was the source for the leak of his FISA warrant.

REALITY GETS A HARSH SENTENCE

With Update Below!

As many of you may already know, this morning was the sentencing for Reality Winner. She was sentenced to 63 months of incarceration and



three years of supervised release upon completion of her term. The supervised release term is rather standard. She will be housed at the Federal Medical Center, Carswell in Fort Worth, Texas. The stated reason was because she is bulimic, but it seems more like a nod to her, and her family, who requested a Texas posting so they would be near. There is no pecuniary fine.

I have not seen the official sentencing order yet, but have little to no doubt she will be credited with the time served in pre-trial detention since her arrest on June 3, 2017; i.e. nearly 15 months. So, assuming that, she should be released in about 4 years.

Okay, that is the hard nuts and bolts of Ms. Winner's sentencing. If you want some more background, please see our old friend Kevin Gosztola at Shadowproof, who has been covering all the Reality Winner court appearances.

All that said, let me address a couple of things. First, the sentence was not unexpected, indeed it was stipulated to in the plea agreement Ms. Winner both signed and allocuted to in open court. While the court technically "could" have deviated downward, there was little to no chance it would given the plea language. Anybody shocked by today's sentencing has not been paying attention.

Secondly, the government did not "block" Winner's defenses. I had a discussion on this point with a good friend, Will Bunch, who has admirably written extensively on, and in favor of, Reality. Sadly, the law here is what it is, and not what Will and I would like it to be. Winner's attorneys filed every motion they could, both to try to win and to protect the record. But those motions were never going to work, they never do, and they did not here.

Jeffrey Sterling also tried all of that. It did not work then, for him, either. Sterling got 42 months in prison. It is hard to compare disparate cases, but in the long run, I personally have a hard time seeing why Reality Winner was worse or more damaging than Jeff Sterling, and yet she got 1.5 times as much incarceration as Sterling. Different DOJ's, different times and the Trump Administration was already on the record as head hunting for leakers when Winner fell into their lap. So, I guess it is not shocking. They were looking to make an example and there she was.

Now to the after show doings. The United States Attorney for the Southern District of Florida, Bobby L. Christine (never trust a man with two first names), cravenly issued a pompous press release on the sentencing. This is just a taste of the Christine hyperbolic:

The document Winner compromised did, in fact, contain TOP SECRET information about the sources and methods used to acquire the intelligence described in the report. That means it revealed how U.S. Intelligence Agencies obtained information. U.S. Government subject matter experts have determined that Winner's willful, purposeful disclosure caused exceptionally grave damage to U.S. national security. That harm included, but was not limited to, impairing the ability of the United States to acquire foreign intelligence information similar to the information the defendant disclosed. This was, by no means, a victimless crime.

What's more, Winner's exceptionally damaging disclosure was not a spontaneous, unplanned event, but was the calculated culmination of a series of acts. She researched whether it was possible to insert a thumb drive into a Top Secret computer without being detected, and then inserted a thumb drive, WHICH THE GOVERNMENT NEVER RECOVERED, into a Top Secret computer. She researched job opportunities that would provide her access to classified information. At the same time, she searched for information about anti-secrecy organizations, and she celebrated claimed compromises in U.S. classified information.

Note the Trump like raging capital letters? Ooof. It was an unnecessary and prickish public release by somebody that had won and driven the vanquished into the ground. And while Bobby L.

Christine took all the glory, he did not do diddly squat himself, the matter was handled by a team of career AUSA's that he did not even have the common courtesy to mention. Very Trump like.

Okay, so why did Ms. Winner end up here? There are a lot of reasons. First off, while Winner would have pretty clearly been discovered anyway, she disclosed her material to The Intercept, which was far from the only cause of her discovery, but did her no favors either. And the Government, especially the NSA, hates, with a capital H, The Intercept. But again, Reality's discovery was inevitable even despite that, but it is a factor.

Secondly, the Government has thought all along that she had more material than what The Intercept and Matt Cole received and published. In its sentencing memorandum, the government addressed other areas of concern as to Winner including: her insertion of flash drive into a TS/SCI NSA computer at Fort Meade; her Internet history (which other filings make clear included details on Anonymous, Vault 7, Hal Martin, Assange, and Snowden); her download of Tor; her seeking out employment at Pluribus; and her screenshots of secure drop information.

These bases were generally also why she was detained without bail. That does not make it right, and it is, and remains true, that there is far too much secrecy and cheap classification in the face of the American public's interest. This is a textbook example of just that. But Reality Winner tried to be a whistleblower and fell into the lurch where there are no such protections for the acts she did. She paid an overly, and draconian, price for what she did because the Trump Administration needed a head on a pike. They got hers. And this morning's sentencing was the ugly culmination of that.

UPDATE: alright, Trevor Timm at The Intercept, has posted an interesting coda to the Reality Winner goings on today.

WHEN THE INTERCEPT first published the top-secret document, reporters and editors went to the government – as they do every time The Intercept publishes classified documents – to hear the NSA’s views about any information that might truly harm national security. After listening to the agency’s arguments, and out of an abundance of caution, The Intercept redacted a few pieces of information from the document before publishing it.

A key phrase that the government wanted withheld was the specific name of the Russian unit identified in the document. The government was particularly insistent on that point. Since it wasn’t vital to the story that the unit’s name be revealed, nor was it clear – at least at the time – that revealing the unit’s name was in the public interest, The Intercept agreed to withhold it.

But in the indictment of alleged Russian military intelligence operatives that Mueller’s office released last month, the Justice Department revealed the same name: GRU unit 74455. (The unit is also known as the Main Center for Special Technology or GTsST.) The indictment went on to reveal information almost identical to that contained in the document Winner admits to disclosing:

In or around June 2016, KOVALEV and his co-conspirators researched domains used by U.S. state boards of elections, secretaries of state, and other election-related entities for website vulnerabilities. KOVALEV and his co-conspirators also searched for state political party email addresses, including filtered queries for email addresses listed on state Republican Party websites.

In or around July 2016, KOVALEV and his

co-conspirators hacked the website of a state board of elections ("SB0E 1") and stole information related to approximately 500,000 voters, including names, addresses, partial social security numbers, dates of birth, and driver's license numbers

In or around August 2016, KOVALEV and his co-conspirators hacked into the computers of a U.S. vendor ("Vendor 1") that supplied software used to verify voter registration information for the 2016 U.S. elections. KOVALEV and his co-conspirators used some of the same infrastructure to hack into Vendor 1 that they had used to hack into SB0E 1.

The Justice Department is trying to have it both ways: It's OK for Mueller to publicly release this information in an attempt to prosecute alleged Russian hackers because it's in the public interest. But at the exact same time, the government is also claiming that a document including very similar information causes grave harm to national security when disclosed to the public by someone else.

There is a lot more there at Trevor's post. Without doubling the size of this post, I would like to second the expert opinions submitted by Bill Leonard that Trevor Timm describes and have been long a staple here. There literally is no greater expert on classification than Bill Leonard. That said, it is like the discussion in the main original post. The fight is against archaic, authoritarian and totalitarian laws and legal precedent. Until those are changed, there is reality, and then there is the regrettable case of Reality Winner.

JOURNALIST RECORDS FROM THE “LAST FIVE YEARS”

When DOJ responded to Ron Wyden’s questions about whether they’ve changed their approach to seizing journalists’ records, the government may have been engaging in linguistic parsing.

AND/OR: AN OMINOUS SIGN FOR WIKILEAKS IN THE JOSHUA SCHULTE INDICTMENT

Rather than accuse Joshua Schulte of leaking CIA’s hacking tools to WikiLeaks know just that it would hurt the US, DOJ accused him of knowingly helping another nation.

IT’S CALLED A SPINE, NOT A CONSCIENCE

If burning sources that lie to you is not a cardinal rule of journalism, it damn well ought to be. I suspect that Marcy’s honest sources will respect her more for this, and her dishonest ones will be very very nervous. Isn’t that something that all journalists ought to strive for? Sullivan lauded Marcy for being a journalist with a conscience – which she is, but that’s not the point here. The point is that Marcy is a journalist with a spine.

TWO DAYS AFTER JULIAN ASSANGE THREATENED DON JR, ACCUSED VAULT 7 LEAKER JOSHUA SCHULTE TOOK TO TOR

Monday, the government rolled out a superseding indictment for former NSA and CIA hacker Joshua Schulte, accusing him (obliquely) of leaking the CIA's hacking tools that became the Vault 7 release from Wikileaks. The filings in his docket (as would the search warrants his series of defense attorneys would have seen) make it clear that the investigation into him, launched just days after the first CIA release, was always about the CIA leak. But when the government took his computer last spring, they found thousands of child porn pictures dating back to 2009. It took the government over three months and a sexual assault indictment in VA to convince a judge to revoke his bail last December, and then another six months to solidify the leaking charges they had been investigating him from the start.

But the case appears to have taken a key turn on November 16, 2017, when he did something – it's not clear what – on the Tor network. While there are several things that might explain why he chose to put his release at risk by accessing Tor that day, it's notable that it occurred two days after Julian Assange tweeted publicly to Donald Trump Jr that he'd still be happy to be Australian Ambassador to the US, implicitly threatening to release more CIA hacking tools.

Schulte was, from days after the initial Vault 7 release, apparently the prime suspect to be the

leaker. As such, the government was *always* interested in what Schulte was doing on Tor. In response to a warrant to Google served in March 2017, the government found him searching, on May 8, 2016, for how to set up a Tor bridge (Schulte has been justifiably mocked for truly abysmal OpSec, and Googling how to set up a bridge is one example). That was right in the middle of the time he was deleting logs from his CIA computer to hide what he was doing on it.

When he was granted bail, he was prohibited from accessing computers. But because the government had arrested him on child porn charges and remained coy (in spite of serial hold-ups with his attorneys regarding clearance to see the small number of classified files the government found on his computer) about the Vault 7 interest, the discussions of how skilled he was with a computer remained fairly oblique. But in their finally successful motion to revoke Schulte's bail, the government revealed that Schulte had not only accessed his email (via his roommate, Schulte's lawyer would later claim), but had accessed Tor five times in the previous month, on November 16, 17, 26, and 30, and on December 5, 2017, which appears to be when the government nudged Virginia to get NYPD to arrest him on a sexual assault charge tied to raping a passed out acquaintance at his home in VA in 2015.

Perhaps the most obvious explanation for why Schulte accessed Tor starting on November 16, 2017, is that he was trying to learn about the assault charges filed in VA the day before.

But there is a more interesting explanation.

As you recall, back in November 2017, some outlets began to publish a bunch of previously undisclosed DMs between Don Jr and Wikileaks. Most attention focused on Wikileaks providing Don Jr access to an anti-Trump site during the election. But I was most interested in Julian Assange's December 16, 2016 "offer" to be Australian Ambassador to the US – basically a request for payback for his help getting Trump

elected.

Hi Don. Hope you're doing well! In relation to Mr. Assange: Obama/Clinton placed pressure on Sweden, UK and Australia (his home country) to illicitly go after Mr. Assange. It would be real easy and helpful for your dad to suggest that Australia appoint Assange ambassador to DC "That's a really smart tough guy and the most famous Australian you have!" or something similar. They won't do it, but it will send the right signals to Australia, UK + Sweden to start following the law and stop bending it to ingratiate themselves with the Clintons. 12/16/16 12:38PM

In the wake of the releases, on November 14, 2017, Assange tweeted out a follow-up.



Julian Assange ♦
@JulianAssange

Following

Dear @DonaldJTrumpJr our offer of being ambassador to the US still stands. I could open a hotel style embassy in DC with luxury immunity suites for whistleblowers. The public will get a turbo-charged flow of intel about the latest CIA plots to undermine democracy. DM me.

[#vault8](#)

4:33 PM - 14 Nov 2017

As I noted at the time, the offer included an implicit threat: by referencing "Vault 8," the name Wikileaks had given to its sole release, on November 9, 2017 of an actual CIA exploit (as opposed to the documentation that Wikileaks had previously released), Assange was threatening to dump more hacking tools, as Shadow Brokers had done before it. Not long after, Ecuador gave Assange its first warning to stop meddling in other countries politics, explicitly pointing to his involvement in the Catalan referendum but also pointing to his tampering with other countries. That warning became an initial ban on

visitors and Internet access in March of this year followed by a more formal one on May 10, 2018 that remains in place.

There's a reason I think those Tor accesses may actually be tied to Assange's implicit threat. In January of this year, when his then lawyer Jacob Kaplan made a bid to renew bail, he offered an excuse for those Tor accesses. He claimed Schulte was using Tor to research the diaries on his experience in the criminal justice system.

In this case, the reason why TOR was accessed was because Mr. Schulte is writing articles, conducting research and writing articles about the criminal justice system and what he has been through, and he does not want the government looking over his shoulder and seeing what exactly he is searching.

Someone posted those diaries to a Facebook account titled "John Galt's Defense Fund" on April 20, 2018 (in addition to being an accused rapist and child porn fan, Schulte's public postings show him to be an anti-Obama racist and an Ayn Rand worshiping libertarian).

Yesterday, Wikileaks linked those diaries, which strikes me as an attempt to corroborate the alibi Schulte has offered for his access to Tor last November.



The government seems to have let Schulte remain free for much of 2017, perhaps in search of evidence to implicate him in the Vault 7 release. Whether it was a response to a second indictment or to Assange's implicit threats to Don Jr, Schulte's use of Tor last year (and, surely, the testimony of the roommate he was using as a go-between) may have been one of the keys to getting the proof the government had been searching for since March 2017.

Whatever it is, both Wikileaks and Schulte would like you to believe he did nothing more nefarious than research due process websites when he put his bail at risk by accessing Tor last year. I find that a dubious claim.

2009: IRC discussions of child porn

2011 and 2012: Google searches for child porn

April 2015: Rapes a woman (possibly partner) who is passed out and takes pictures of it

March to June 2016: Schulte deleting logs of access to CIA computer

May 8, 2016: Schulte Googles how to set up a Tor bridge

November 2016: Leaves CIA, moves to NY, works for Bloomberg

December 16, 2016: Assange DM to Don Jr about becoming Ambassador

Hi Don. Hope you're doing well! In relation to Mr. Assange: Obama/Clinton placed pressure on Sweden, UK and Australia (his home country) to illicitly go after Mr. Assange. It would be real easy and helpful for your dad to suggest that Australia appoint Assange ambassador to DC "That's a really smart tough guy and the most famous Australian you have!" or something similar. They won't do it, but it will send the right signals to Australia, UK + Sweden to start following the law and stop bending it to ingratiate themselves with the Clintons. 12/16/16 12:38PM

February 4, 2017: Wikileaks starts prepping Vault 7

March 7, 2017: Wikileaks starts releasing Vault 7

March 13, 2017: Google search warrant

March 20, 2017: Search (including of cell phone, from which passwords to his desktop obtained)

June 2017: Interview

August 17, 2017: Dana Rohrabacher tries to broker deal for Assange with Trump

August 23, 2017: Arrest affidavit

August 24, 2017: Arraignment

THE COURT: Well, it sounds like, based on the interview, that he knew what the government was looking at.

MR. LAROCHE: That wasn't the basis of the interview, your Honor.

MR. KOSS: I think it was either two or three [interviews]. I think it was three

occasions. I was there on all three, including one of which where we handed over the telephone and unblocked the password to the phone, which they did not have, and gave that to them. And as I said, I have been in constant contact with the three assistant U.S. attorneys working on this matter literally on a weekly basis for the last 4, 5, 6 months. And any time Mr. Schulte even thought about traveling, I provided them an itinerary. I cleared it with them first and made sure it was okay. On any occasion that they said they might want him close so that he could speak to them, I cancelled the travel and rescheduled it so that we would be available if they needed him at any given time.

September 13, 2017: Bail hearing

MR. LAROCHE: Well, I believe there still is a danger because it's not just computers, your Honor, but electronic devices are all over society and easy to procure and this type of defendant having the type of knowledge he has does in terms of accessing things – so he has expertise and not only just generally computers but using things such as wiping tools that would allow him to access certain website and leave no trace of it. Those can be done from not just a computer but from other electronic devices.

But the child pornography itself is located on the defendant's desktop computer. They can be accessed irrespective of those servers. So if all the government had was this desktop computer, we could recover the child pornography. So I think this idea that numerous people had access to the serves and potentially could have put it there, is simply a red herring. This was on the

defendant's desktop computer. And the location where it was found, this sub-folder within several layers of encryption, there were other personal information of the defendant in that area. There was his bank accounts. I think there was even a resume for the defendant where he was storing this information. And the passwords that were used to get into that location, those passwords were the same passwords the defendant used to access his bank account, to access various other accounts that are related to him. So this idea that he shared them with other people, the government just strongly disagrees.

October 11, 2017: Schulte lawyer Spiro withdraws

October 24, 2017: At Trump's request Bill Binney meets with Mike Pompeo to offer alternate theory of the DNC hack

November 8, 2017: Status hearing

SMITH: I believe the government has told us that there's more data in this case than in any other like case that they have prosecuted.

MR. STANSBURY: Let me just clarify that part first. We proposed this just in an abundance of caution given the defendant's former employer and the fact that – and I meant to flag this before. I apologize now for not. There's a small body of documents that were found in the defendant's residence that were taken from his former employer that might implicate some classified issues. We have been in the process of having those reviewed and I think we're going to be in a position to produce those in the next probably few days. But we wanted to just make sure that we were acting out of an abundance of caution in case any

SEPA [sic] issues come about in the case. I don't expect them too at this point but we wanted to do that out of an abundance of caution.

November 9, 2017: Wikileaks publishes Vault 8 exploit

November 14, 2017: Assange posts Vault 8 Ambassador follow-up



November 14, 2017: Arrest warrant in VA

November 15, 2017: Charged in Loudon County for sexual assault

November 16, 2017: Use of Tor

November 17, 2017: Use of Tor

November 26, 2017: Use of Tor

November 29, 2017: Abundance of caution, attorney should obtain clearance

November 30, 2017: Use of Tor

December 5, 2017: Use of Tor, Smith withdraws

December 7, 2017: NYPD arrests on VA warrant for sexual assault

December 12, 2017: Move for detention, including description of email and Tor access

Separately, since the defendant was released on bail, the Government has obtained evidence that he has been using

the Internet. First, the Government has obtained data from the service provider for the defendant's email account (the "Schulte Email Account"), which shows that the account has regularly been logged into and out of since the defendant was released on bail, most recently on the evening of December 6, 2017. Notably, the IP address used to access the Schulte Email Account is almost always the same IP address associated with the broadband internet account for the defendant's apartment (the "Broadband Account")—i.e., the account used by Schulte in the apartment to access the Internet via a Wi-Fi network. Moreover, data from the Broadband Account shows that on November 16, 2017, the Broadband Account was used to access the "TOR" network, that is, a network that allows for anonymous communications on the Internet via a worldwide network of linked computer servers, and multiple layers of data encryption. The Broadband Account shows that additional TOR connections were made again on November 17, 26, 30, and December 5.

[snip]

First, there is clear and convincing evidence that the defendant has violated a release condition—namely, the condition that he shall not use the Internet without express authorization from Pretrial Services to do so. As explained above, data obtained from the Schulte Email Account and the Broadband Account strongly suggests that the defendant has been using the Internet since shortly after his release on bail. Especially troubling is the defendant's apparent use on five occasions of the TOR network. TOR networks enable anonymous communications over the Internet and could be used to download

or view child pornography without detection. Indeed, the defendant has a history of using TOR networks. The defendant's Google searches obtained in this investigation show that on May 8, 2016, the defendant conducted multiple searches related to the use of TOR to anonymously transfer encrypted data on the Internet. In particular, the defendant had searched for "setup for relay," "test bridge relay," and "tor relay vs bridge." Each of these searches returned information regarding the use of interconnected computers on TOR to convey information, or the use of a computer to serve as the gateway (or bridge) into the TOR network.

December 14, 2017: US custody in NY

MR. KAPLAN: Well, your Honor, we've obtained the discovery given to prior counsel, and I've started to go through that. In addition, there was one other issue which I believe was raised at our prior conference, which was a security clearance for counsel to go through some of the national security evidence that might be present in the case.

While most of the national security stuff does not involve the charges, the actual charges against Mr. Schulte, the basis for the search warrants in this case involve national security.

So I'm starting the process with their office to hopefully get clearance to go through some of the information on that with an eye towards possibly a Franks motion going forward. So I would ask for more time just to get that rolling.

January 8, 2018: Bail appeal hearing

MR. KAPLAN: Judge, on the last court date, when we left, the idea was that we

had consented to detention with the understanding that Mr. Schulte would be sent down to Virginia to face charges based on a Virginia warrant. None of that happened. Virginia never came to get him. Virginia just didn't do anything in this case. But before I address the bail issues, I think it's important that this Court hear the full story of how we actually get here. At one of the previous court appearances, I believe it was the November 8th date, this Court asked why the defense attorney in this case would need security clearance. And the answer that was given by one of the prosecutors, I believe, was that there was some top secret government information that was found in Mr. Schulte's apartment, and that out of an abundance of caution it would be prudent that the defense attorney get clearance. But I don't think that's entirely accurate.

While the current indictment charges Mr. Schulte with child pornography, this case comes out of a much broader perspective. In March of 2017, there was the WikiLeaks leak, where 8,000 CIA documents were leaked on the Internet. The FBI believed that Mr. Schulte was involved in that leak. As part of their investigation, they obtained numerous search warrants for Mr. Schulte's phone, for his computers, and other items, in order to establish the connection between Mr. Schulte and the WikiLeaks leak.

As we will discuss later in motion practice, we believe that many of the facts relied on to get the search warrants were just flat inaccurate and not true, and part of our belief is because later on, in the third or fourth search warrant applications, they said some of the facts that we mentioned

earlier were not accurate. So we will address this in a Franks motion going forward, but what I think is important for the Court is, in April or May of 2017, the government had full access to his computers and his phone, and they found the child pornography in this case, but what they didn't find was any connection to the WikiLeaks investigation. Since that point, from May going forward, although they later argued he was a danger to the community, they let him out; they let him travel. There was no concern at all. That changed when they arrested him in August on the child pornography case.

[snip]

The second basis that the government had in its letter for detaining Mr. Schulte was the usage of computers. In the government's letter, they note how, if you search the IP address for Mr. Schulte's apartment, they found numerous log-ons to his Gmail account, in clear violation of this court's order. But what the government's letter doesn't mention is that Mr. Schulte had a roommate, his cousin, Shane Presnall, and this roommate, who the government and pretrial services knew about, was allowed to have a computer.

And more than that, based on numerous conversations, at least two conversations between pretrial services, John Moscato, Josh Schulte and Shane Presnall, it was Shane's understanding that pretrial services allowed him to check Mr. Schulte's e-mail and to do searches for him on the Internet, with the idea that Josh Schulte himself would not have access to the computer.

And the government gave 14 pages of log-on information to establish this point. And, Judge, we have gone through all 14

pages, and every single access and log-in corresponds to a time that Shane Presnall is in the apartment. His computer has facial recognition, it has an alphanumeric code, and there is no point when Josh Schulte is left himself with the computer without Shane being there, and that was their understanding.

LAROCHE: And part of that investigation is analyzing whether and to what extent TOR was used in transmitting classified information. So the fact that the defendant is now, while on pretrial release, using TOR from his apartment, when he was explicitly told not to use the Internet, is extremely troubling and suggests that he did willfully violate his bail conditions.

KAPLAN: In this case, the reason why TOR was accessed was because Mr. Schulte is writing articles, conducting research and writing articles about the criminal justice system and what he has been through, and he does not want the government looking over his shoulder and seeing what exactly he is searching.

LAROCHE: Because there is a classified document that is located on the defendant's computer, it is extremely difficult, and we have determined not possible, to remove that document forensically and still provide an accurate copy of the desktop computer to the defendant.

So in those circumstances, defense counsel is going to require a top secret clearance in order to view these materials. It's my understanding that that process is ongoing, and we have asked them to expedite it. As soon as the defendant's application is in, we

believe he will get an interim classification to review this material within approximately two to three weeks. Unfortunately, that hasn't occurred yet. So the defendant still does not have access to that particular aspect of discovery. So we are working through that as quickly as we can.

January 17, 2018: Bail appeal denied

March 15, 2018: Sabrina Shroff appointed

March 28, 2018: Initial ban of Internet access and visitors for Assange

April 20, 2018: Schulte's diaries (ostensibly the purpose of using Tor) posted



May 10, 2018: Ecuador bans visitors for Assange

May 16, 18, 2018: Documents placed in vault

May 16, 2018: Schulte Facebook site starts legal defense fund

June 18, 2018: Schulte superseding indictment

June 19, 2018: Wikileaks posts links to diary

TWO DETAILS ABOUT DOJ IG'S LEAK INVESTIGATIONS, PLURAL, INCLUDING THE ONE INTO RUDY GIULIANI'S SOURCES

Michael Horowitz dropped a few tidbits between the two hearings on the Hillary investigation. First, DOJ IG has multiple leak investigations ongoing. And they may have been referred criminally.

JAMES WOLFE: THE DISTINCTION BETWEEN FBI'S INVESTIGATION OF LEAKING CLASSIFIED VERSUS NON-PUBLIC INFORMATION

Several details about the James Wolfe investigation suggest DOJ may view the false statements charges against James Wolfe as a

GOOGLE AT TEMPLE: DID

DOJ FOLLOW ITS NEW GUIDELINES ON INSTITUTIONAL GAGS?

The seizure of Ali Watkins' email subscriber records from when she was at Temple marks the second time the university had a community member's records seized without launching a First Amendment challenge.

KASHYAP PATEL HAD BETTER NOT RELY ON THE BILL DUHNKE PRECEDENT

Contrary to what a lot of people understand of the case, Jeffrey Sterling was not the CIA's first suspect for the Merlin leaks to James Risen. Senate Intelligence Committee Staff Director Bill Duhnke was. As former CIA press person Bill Harlow testified, he told the FBI that James Risen had close ties to Duhnke when he first talked to them about Risen's story.

Q. Okay. And you also told them that someone they should talk to about something like this would be Bill Duhnke, a person named Bill Duhnke, correct, up at the — that worked at the U.S. Senate?

BY MR. MAC MAHON: Q. Now, Mr. Harlow, in 2003, you told the FBI that you thought that Mr. Risen might reach out to the Staff Director of the Senate Select Intelligence Committee on Intelligence for confirmation, that Mr. Risen would, correct?

[snip]

A. My recollection is what the FBI asked me is who are the kind of people that Risen might talk to on a story like this, and I told them that he had regular contact with the Congressional Oversight Committees, including the Senate Intelligence Committee, and so the kind of places he might go to ask about the story would be the Senate Oversight committees. That's my recollection of it. You know, it's a dozen years ago but –

Q. And one of the names you gave them was Bill Duhnke, right?

A. Right.

As FBI Agent Hunt explained, however, she was hampered from investigating whether Duhnke (who knew aspects about Merlin that Sterling did not which showed up in Risen's reporting) was a source for Risen because Senator Pat Roberts refused to cooperate with the FBI, even after then FBI Director Robert Mueller requested himself.

Q. And do you also remember writing in 2006 that the FBI director contacted the SSCI Chairman and Senator Pat Roberts, right?

A. Yes.

Q. And that Senator Roberts told Director Mueller that he wasn't going to cooperate with the FBI at all in this investigation, correct?

A. Yes.

Q. And that never changed, did it?

A. It did change.

Q. You then got some cooperation from SSCI, correct?

A. I did. Q. You never got an interview with Mr. Duhnke, right?

A. I did not interview Mr. Duhnke.

Thus it happened that Speech and Debate prevented the FBI from investigating whether a key Intelligence Committee staffer played a role in a leak the government claimed was one of the worst ever.

I thought of that precedent when I read this passage in the NYT's latest story on DOJ's belated realization that Devin Nunes was using purported oversight requests to discover details that might help Trump delegitimize the Mueller investigation.

In another meeting, Mr. Rosenstein felt he was outright misled by Mr. Nunes's staff. Mr. Rosenstein wanted to know whether Kashyap Patel, an investigator working for Mr. Nunes who was the primary author of the disputed memo, had traveled to London the previous summer to interview a former British spy who had compiled a salacious dossier about Mr. Trump, according to a former federal law enforcement official familiar with the interaction.

Mr. Patel was not forthcoming during the contentious meeting, the official said, and the conversation helped solidify Mr. Rosenstein's belief that Mr. Nunes and other allies in Congress were not operating in good faith.

And these passages in an earlier NYT piece on Patel.

Over the summer, Mr. Nunes dispatched Mr. Patel and another member of the committee's Republican staff to London, where they showed up unannounced at the offices of Mr. Steele, a former British intelligence official.

Told Mr. Steele was not there, Mr. Patel and Douglas E. Presley, a professional staff member, managed to track him down at the offices of his lawyers. There, they said they were seeking only to establish contact with Mr. Steele, but were rebuffed and left without meeting him, according to two people with knowledge of the encounter.

A senior official for the Republican majority on the Intelligence Committee, who spoke on the condition of anonymity because he was not authorized to speak about the matter, said the purpose of the visit had been to make contact with Mr. Steele's lawyers, not Mr. Steele. Still, the visit was highly unusual and appeared to violate protocol, because they were trying to meet with Mr. Steele outside official channels.

Ordinarily, such a visit would be coordinated through lawyers, conducted with knowledge of the House Democrats, who were not informed and the American Embassy.

Given Rosenstein's concerns that Patel was lying, I find it particularly interesting that he didn't inform the American Embassy when he was there. It's as if he was looking for a back channel!

As NYCSouthpaw noted, Patel has been hanging around the White House since he's started playing this role.

In the months since, Mr. Patel has apparently forged connections at the White House. In November, he posted a series of photos to Facebook of him and several friends wearing matching shirts at the White House bowling alley. "The Dons hit the lanes at 1600 Pennsylvania," Mr. Patel wrote under the photos.

This would suggest that the Nunes designee who has had firsthand access to all this intelligence, has also gotten really comfortable with the White House, leaving the possibility that he has shared the information with those in charge of delegitimize the investigation.

I've long wondered why Nunes has refused to read the information he has fought so hard to get access to. But by giving Patel that access without reading the materials himself, Nunes ensures that someone with easy access to the White House sees the materials, without jeopardizing the power to refuse any cooperation with Mueller.

Nunes, like Roberts did in 2006, could simply refuse to cooperate under speech and debate.

And it might well work!

There is, however one problem with that. You see, one of the ways (admittedly one of the less offensive ways) the President has interfered in the operations of DOJ is by demanding that the department ratchet up the leak investigations. And at a time last summer where Trump was threatening to fire Sessions so he could hire someone who could interfere with the Mueller investigation, Sessions and Dan Coats rolled out a new war on leaks, speaking of new permissiveness for prosecutors. Both Sessions...

To prevent these leaks, every agency and Congress has to do better.

We are taking a stand. This culture of leaking must stop.

[snip]

Finally, here is what I want to tell every American today: This nation must end the culture of leaks. We will investigate and seek to bring criminals to justice. We will not allow rogue anonymous sources with security clearances to sell out our country any longer.

These cases are never easy. But cases will be made, and leakers will be held accountable.

All of us in government and in every agency and in Congress must do better.

And Coats invoked Congress as a source of leaks specifically.

I would like to point out, however, that these national security breaches do not just originate in the Intelligence Community. They come from a wide range of sources within government, including the Executive Branch and including the Congress.

At the time, those mentions were deemed a warning that (in addition to changing the rules allowing them to pursue journalists), DOJ would also start pursuing Congress and its staffers more aggressively.

So while the available evidence suggests that Patel may be part of Nunes' effort to funnel information to the White House, and while past history has shown that Nunes' counterparts have been able to protect intelligence committee leakers, perhaps the witch hunt demanded by Trump will change that.