

HOW THE MUELLER TEAM THINKS OF CONFRAUDUS

I've written before how I think Conspiracy to Defraud the United States (ConFraudUs) provides Mueller a way to charge a variety of conduct with conspiracy charges that additional defendants can be dropped into, all of which might form an interlocking series of ConFraudUs indictments that map out the entire election crime. In this post, I observed how the charge worked in the Manafort and Internet Research Agency indictments. In this one, I described how it might work to charge Jared (and everyone else) for pretending to be serving US foreign policy interests while actually making bank.

In response to a challenge from Concord Consulting in the IRA indictment, the Mueller team has laid out how they think of ConFraudUs. The filing hints at how and why they may be using this as a backbone for their pursuit of the 2016 election tampering culprits.

In a blustery motion claiming that Mueller only charged Concord with ConFraudUs because he needed to charge some Russians, any Russians, to justify his appointment, Concord demanded access to the grand jury instructions on the ConFraudUs charge, claiming that the charge requires willfulness. (Click through to read the footnotes here, which include a gratuitous Casablanca reference and complaints about US tampering in elections.)

Now, some twenty years later, the Deputy Attorney General acting for the recused Attorney General has rejected the history and integrity of the DOJ, and instead licensed a Special Counsel who for all practical political purposes cannot be fired, to indict a case that has absolutely nothing to do with any links or coordination between any

candidate and the Russian Government.² The reason is obvious, and is political: to justify his own existence the Special Counsel has to indict a Russian – any Russian.³ Different from any election case previously brought by the DOJ, the Special Counsel used the catch-all provision of the federal criminal code, the defraud prong of conspiracy, 18 U.S.C. § 371, to allege that a foreign corporate defendant with no presence in the United States and having never entered the United States, engaged in the make-believe crime of conspiring to “interfere” in a United States election. Indictment, Dkt. 1, ¶ 2. Presumably to bolster these allegations (which have a strong odor of hypocrisy)⁴, the Special Counsel has pleaded around the knowledge requirements of all related substantive statutes and regulations by asserting that Concord conspired to obstruct the functions of the United States Departments of Justice (“DOJ”) and State (“DOS”), and the Federal Election Commission (“FEC”).⁵ But violations of the relevant federal campaign laws and foreign agent registration requirements administered by the DOJ and the FEC require the defendant to have acted “willfully,” a word that does not appear anywhere in Count One of the Indictment. See 52 U.S.C. § 30109(d) and 22 U.S.C. § 618(a).⁶

Violations of the federal campaign laws and foreign agent registration ... require the defendant to have acted “willfully,” say the Russians who trolled our election.

That’s true, Mueller concedes.

Then points out they haven’t charged those underlying crimes. They’ve just charged ConFraudUs. And the standard for ConFraudUs is “intent to defraud the US;” there’s no

“willfulness” standard required.

As an initial matter, the government agrees that the plain language of the statutory provisions Concord Management has identified in the Federal Election Campaign Act, 52 U.S.C. § 30109(d), and the Foreign Agent Registration Act 22 U.S.C. § 618(a), set forth a “willfulness” standard with respect to knowledge. The government, however, did not charge Concord Management with substantive violations of FECA, FARA, or for that matter, visa fraud – an offense that requires only a “knowing” standard. See 18 U.S.C. § 1546. Concord Management is alleged to have conspired to defraud the United States, in violation of 18 U.S.C. § 371. As described in more detail below, the mens rea for that offense is intent to defraud the United States, not to willfully commit substantive offenses that are not charged in the Indictment

Which brings them to where they lay out precisely what ConFraudUs requires:

The essential elements of a conspiracy to defraud the United States consist of the following: (1) two or more persons formed an agreement to defraud the United States; (2) the defendant knowingly participated in the conspiracy with the intent to defraud the United States; and (3) at least one overt act was committed in furtherance of the common scheme. See *United States v. Treadwell*, 760 F.2d 327, 333 (D.C. Cir. 1985); *United States v. Coplan*, 703 F.3d 46, 61 (2d Cir. 2012), cert. denied, 571 U.S. 819 (2013). The agreement to defraud must be one to obstruct a lawful function of the Government or its agencies by deceitful or dishonest means. *Coplan*, 703 F.3d at 60–61; see *United States v. Davis*, 863 F.3d 894,

901 (D.C. Cir. 2017) (explaining that a charge under the defraud clause requires proof that a defendant “knowingly agreed with [the codefendant] (or another person) to defraud the federal government of money or to deceptively interfere with the lawful functions of” a particular government agency). The mens rea is a specific intent to defraud the United States, not willfulness. See *United States v. Khalife*, 106 F.3d 1300, 1303 (6th Cir. 1997), cert. denied, 522 U.S. 1045 (1998); *United States v. Jackson*, 33 F.3d 866, 871–72 (7th Cir. 1994), cert. denied, 514 U.S. 1005 (1995). The mens rea requirements of particular substantive crimes, in short, do not carry over to defraud-clause prosecutions. See, e.g., *Jackson*, 33 F.3d at 870–72 (government need not establish the level of willfulness required to prove a “structuring” offense when it charges the same behavior as a conspiracy to defraud); *Khalife*, 106 F.3d at 1303 (same).⁴

So,

- (1) two or more persons formed an agreement to defraud the United States;
- (2) [each] defendant knowingly participated in the conspiracy with the intent to defraud the United States; and
- (3) at least one overt act was committed in furtherance of the common scheme.

Basically, the Mueller team argues, Concord and all its trolls only have to agree to pull a fast one on the American electoral regulatory apparatus, with at least one overt act like ... a trollish tweet. They don't have to individually *willfully* violate the underlying law.

We'll see what Judge Dabney Friedrich has to say

about this argument (though as far as I understand it, the Mueller argument is not at all controversial). As a reminder, Rick Gates has already pled guilty to this charge.

However Friedrich rules, however, you can how this would apply to a number of other known actions. Did Don Jr conspire with Aras Agalarov and his surrogates to defraud the fair management of elections when he stated, in the context of receiving dirt on Hillary Clinton, that he would revisit the Magnitsky Act sanctions when his father won the election (several witnesses gave sworn testimony that this happened)? Did Roger Stone conspire with Guccifer 2.0 when they (as reported but not yet substantiated with evidence) discussed how to find Russian hackers who had stolen Hillary's emails? Did Brad Parscale conspire with Cambridge Analytica, not just to permit foreigners to illegally provide assistance to the Trump campaign, but also to use stolen models to heighten discontent among Democratic voters?

Importantly, Mueller would not have to prove that all participants in all these conspiracies had the *mens rea* required by the underlying charges. It's enough that they're trying to deceitfully thwart the lawful functioning of a government process.

Obviously, Mueller hasn't yet charged any of these ConFraudUs conspiracies, if indeed they happened. But you can see why he might use ConFraudUs to do so.

RUDY 9/11'S LATEST OUTRAGEOUS ATTEMPTS

TO OBSTRUCT THE MUELLER PROBE

I've been noting Trey Gowdy's expressed support for Mueller's investigation since he announced his retirement back in February.

On Sunday, on one of the Sunday shows, Trey—I think it was a Fox show—Trey Gowdy said, “You know, this memo should come out. It’s important. But my side should not use it to undermine the Mueller investigation.” And the reason he gave is that what is not being seen about the Mueller investigation is there’s a whole counterintelligence side to it. There’s a whole side of it investigating how the Russians tampered in our election. And according to Gowdy, who has seen these underlying documents, he thinks that’s an important and legitimate investigation.

This Sunday, in the wake of last week's briefing on Stefan Halper's role in the investigation of Carter Page and George Papadopoulos (and, possibly, other aspects of the Russian investigation), Gowdy did it again, explaining that the FBI did precisely what they should have done in response to identifying counterintelligence concerns in Trump's campaign.

GOWDY: [I]t was President Trump, himself who said, number one, “I didn't collude with the Russia but if anyone connected with my campaign did, I want the FBI to find that out.” It looks to me like the FBI was doing what President Trump said I want you to do, find it out. He is not the target. So, when Schiff and others don't make that clear, they're doing the disservice to our fellow citizens. He is not the target.

MACCALLUM: But this raises the question

that the president raised in this – in this one of those tweets, there were a lot of them. In which we talked about quite a bit here last week, is if that were the case, why didn't they give him a little briefing?

So, here is what we found out. You know, we do have somebody who asked some questions of George Papadopoulos. We do have somebody who's asked questions of Carter Page. Here's what you need to know.

GOWDY: I think, defensive briefings are done a lot. And why the Comey FBI didn't do it? I don't know, but Chris Wray and Rod Rosenstein have at least made it clear to us, Donald Trump was never the target of the investigation. He is not the current target of the investigation. Now, keep in mind that can all change depending on what a witness says.

But as of now, I think Chris Wray and Rod Rosenstein are stunned whenever people think Trump is the target of their investigation. I'll leave it up to them how to brief the president, or how to brief his lawyers.

MACCALLUM: Was that point of view that you're talking about right now, was that strengthened when you went into this briefing last week?

GOWDY: Yes, I am – I am even more convinced that the FBI did exactly what my fellow citizens would want them to do when they got the information they got. And that it has nothing to do with Donald Trump.

MACCALLUM: All right. So, given the things that were over here on your right hand, all the frustrations, do you think it's problematic the way the president has – is tweeting about this all the time? Because he feels like he needs to

get – he needs to vent. He’s got to get his message out there. Is it legally problematic in your mind what he is doing?

GOWDY: I think any time you create prior statements, you give Mueller or other folks a chance to question you on them and ask what was your factual basis, why did you say that? The president should have access to the best legal minds in the country. And I think he should take advantage of those. And he has got some really good communicators that are on his staff and at his – at his call. If I were his lawyer, and I never will be, I would tell him to rely on his lawyers and his comes folks.

MACCALLUM: All right, here is one of them, Rudy Giuliani, speaking with Bill Hemmer over the holiday weekend. Watch this.

(BEGIN VIDEO CLIP)

BILL HEMMER, FOX NEWS CO-ANCHOR: What’s wrong with the government trying to figure out what Russia was up to?

RUDY GIULIANI, ATTORNEY TO PRESIDENT DONALD TRUMP: Nothing wrong with the government doing that. Everything wrong with the government spying on a candidate of the opposition party, that’s a Watergate, a spy gate. I mean, and without any warning to him. And now, to compound that, to make it into a criminal investigation bill? That’s why this is a rigged investigation.

(END VIDEO CLIP)

GOWDY: There are two things wrong with what the former U.S. attorney said. Number one, no one knows whether this is a criminal investigation. Mueller was told to do a counterintelligence investigation into what Russia did. And

number two, President Trump himself in the Comey memos said if anyone connected with my campaign was working with Russia, I want you to investigate it.

And it sounds to me like that is exactly what the FBI did, I think when the president finds out what happened, he is going to be not just fine, he's going to be glad that we have an FBI that took seriously what they heard. He was never the target, Russia is the target.

MACCALLUM: So, it sounds to me as if you would advise him that there's no problem with him sitting down with Robert Muller.

GOWDY: Oh, absolutely no. I have always said, I think you want to sit down with Bob Mueller. You've told us publicly there was no collusion, you've told us publicly there was no obstruction. Say in private what you've said publicly, limit the scope to exactly what the – what the Mueller memo is, but if he were my client and I'd say if you've done nothing wrong, then you need to sit down and tell Mueller what you know.

Mind you, Gowdy wasn't the only one who said this. Mitch McConnell came out of the briefing (I'm still not sure whether Gowdy was in the Gang of Eight briefing or just the one with Devin Nunes) and said he supports Mueller. Nunes has gone silent, either because he, too, believes the FBI's actions were proper, or because because he attended a briefing with the rest of the Gang of Eight, he'll be more constrained about any bullshit claims he makes.

Nevertheless, Rudy is now targeting Gowdy in the same way Republicans have targeted Adam Schiff for supporting the investigation, even attacking him for running a never-ending investigation into Hillary.

Giuliani lashed out at Gowdy – who isn't running for reelection – for his comments, saying that his constituents "would probably be outraged at what he's doing."

He then veered off-topic, adding that those constituents "probably want to figure out what the hell he did with Benghazi." Gowdy was the chair of the House committee that looked into the attack on the US diplomatic mission in Benghazi, Libya, that left four dead, including Christopher Stevens, the US Ambassador to Libya.

"He sure screwed that one up. You got four families that do not think that Trey Gowdy did his job," Giuliani said.

Rudy did something else in that interview with BuzzFeed's Chris Geidner that Geidner didn't emphasize, but deserves closer focus. He asserted that Trump's legal team would still demand to see the files on Halper.

"We want to review all of the documentation they have for the investigation of what they call the spying on Russia and the spying – that led to the spying on the Trump campaign," he said. He said the president's attorneys have no plans to ask for the alleged informant's identity – which has been reported in multiple outlets to be Professor Stefan Halper.

"Once we see what they've revealed," Giuliani said of the documents, "I think we'll need his identity even less, because I think it revealed bullshit. Which is why they don't want to show it to us. This informant was a total waste of money, a total lark, a complete attempt to try to frame Trump, and it's gonna show that he did nothing wrong. And that's why they concealed it for a

year.”

As Adam Schiff noted, this move demolishes any claim that the document request is about oversight; it makes it clear this request – and, I agree with Schiff, the prior ones – are all about giving Trump a peek into the investigation.

“Rudy Giuliani has effectively admitted that [House Intelligence Committee] Chairman [Devin] Nunes’ demand for information about the investigation is a charade designed only to obtain material for the Trump legal defense team,” Schiff said. “He now seeks to use the improper effort to obtain information about an investigation implicating the president as a justification to refuse to allow the president to testify.

Meanwhile, I’ve got new questions about whether Trump already has gotten information on the investigation.

Among the things Rudy has said of late, he mocked the Internet Research Agency indictment, suggesting it’s phony.

Even those Russians, the phony indictment they have of the Russians who will never come here for trial, they colluded with each other. Russians colluding. Oh wow that’s big news. Russians have been colluding since the Soviet Union to interfere in our elections.

Mind you, as I’ve noted, Yevgeniy Prigozhin’s firm, Concord Consulting, is mounting a defense. Even there, Concord and the government just jointly proposed a schedule to lead towards trial (which would take place sometime after November). So that’s happening, at least until the US butts up against evidence it refuses to share even with Concord’s US lawyers (the

parties are still discussing a protection order now).

But I'm interested in Rudy's comment for another reason. While a lot of attention has been paid to the news that the government and George Papadopoulos have moved towards sentencing, a similar announcement came this week in the Richard Pinedo case – the guy who sold identities that IRA used to create troll accounts. I have no idea what the Papadopoulos move means, but with Pinedo, I've wondered what cooperation he offered to get the plea in the first place. And I've wondered whether the move to sentencing actually means Mueller has finished any investigation of Campaign Official 1, 2, and 3 named in the indictment.

Which is to say that I find the timing of Rudy's mockery of the IRA indictment, which is a real description of the damage Russia did, to be of interest.

ON THOSE FIVE AT&T PHONES MANAFORT WANTED TO LEARN ABOUT

Yesterday, Amy Berman Jackson rejected Paul Manafort's effort to get the last of the affidavits used to get warrants against him unsealed. The challenge started as an effort to get seven warrant affidavits unsealed; along the way, Manafort got a completely unredacted copy of the affidavit behind the search of his condo (which would have been the first one reflecting the government's knowledge of his role in the June 9 meeting), and the name of a confidential source – actually a known former employee of his – behind the warrant to search his storage

facility.

Along with some other government disclosure, that left two affidavits. A warrant to search his email account.

In the Matter of the Search of Information Associated with Email Account p Manafort@dmpint.com (D.D.C.) (17-mj-00611).

Based on the DC docket, I think this warrant would have been obtained sometime between August 14 and 18 of last year. This is the email address that Mueller's team caught Manafort using to conduct ongoing discussions with Konstantin Kilimnik last November (though Kilimnik's side would have been accessible via a Section 702 served on Google).

The other warrant is one to obtain information relating to five AT&T phones.

In the Matter of the Search of Information Associated with Five Telephone Numbers Controlled by AT&T (D.D.C.) (18-sc-609).

In her order, ABJ explained that the government is only withholding the names of confidential sources and stuff pertaining to investigations other than the money laundering investigations currently pending against Manafort.

The government argues that the information that is currently being withheld fell within two categories: the names of confidential sources who had provided information to the government, and information relating to ongoing investigations that does not bear upon the allegations in either of the two cases now pending against Manafort.

An earlier filing explained that the second, AT&T, affidavit was obtained on March 9 and it covers "ongoing investigations that are not the

subject of either of the current prosecutions involving Manafort.”

On April 4, 2018, the government produced in redacted form, and for the first time, an affidavit supporting a search warrant that had been obtained on March 9, 2018. That affidavit likewise contains redactions—albeit more substantial ones—relating to ongoing investigations that are not the subject of either of the current prosecutions involving Manafort.

As I believe others pointed out at the time, this would put it just a few weeks after Rick Gates pled on February 23, and so might reflect information obtained with his cooperation.

In her ruling, ABJ cited the last week’s hearing, suggesting that the phones still redacted in the affidavit materials might not be Manafort’s.

THE COURT: What if – I think one of them is about phone information. What if the redacted phones are not his phone?

MR. WESTLING: I don’t have a problem with that. I think we’re talking about things that relate to this defendant in this case.

Since just before this phone data was obtained, Mueller’s team has focused closely on Roger Stone, starting with the Sam Nunberg meltdown on March 5, including a retracted claim that Trump knew of the June 9 meeting the week beforehand (there’s a phone call Don Jr placed on June 6 that several committees think may have been to Trump, something Mueller presumably knows). Ted Malloch was stopped at the border and interviewed (and had his phone seized) on March 30, and scheduled for a since aborted grand jury appearance on April 13. Stone assistants John Sullivan and Jason Kakanis were subpoenaed earlier in May. Of particularly interest,

Michael Caputo was interviewed about meetings he and Stone had with Gates before and during the campaign. Stone's finances have been probed. Stone says he expects an indictment, but claims it would pertain to issues unrelated to colluding with Russia.

These details may, of course, be entirely unrelated. But Mueller sure has focused closely on Stone in the wake of obtaining information on those phones that don't belong to Manafort.

Meanwhile, Manafort has started a fund to pay what must be astronomical legal bills. He may make bail this week, or Mueller's team may move the goalposts.

Update: Jason Sullivan appeared before the grand jury today (Friday June 1), though he was originally subpoenaed to appear on May 18. That, plus the Ted Malloch detail, suggests Mueller is juggling the Stone witnesses.

THREE DATA POINTS ON GEORGE PAPADOPOULOS

The frothy right has grabbed ahold of this Chuck Ross story, thinking it helps their case, without realizing that the main finding in it actually confirms something Adam Schiff noted in February (which Ross struggled to understand at the time). So I'd like to point out what Papadopoulos said when.

May 10: "Russians might use material that they have on Hillary Clinton in the lead-up to the election, which may be damaging"

Per Ross' quotes from Alexander Downer's April 28 interview, here's what Papadopoulos told Downer on May 10, 2016.

“During that conversation, [Papadopoulos] mentioned the Russians might use material that they have on Hillary Clinton in the lead-up to the election, which may be damaging,” Downer told The Australian.

Downer said he felt the information “seemed quite interesting” and “was worth reporting.”

That’s mostly consistent with a redacted passage of the Schiff memo, which as I noted at the time must say something to the effect of Russia said it had materials that that it would release to help Trump, though given the public record I suspect there’s a dispute about whether hurting Hillary in a two-person race amounts to helping Trump.

George Papadopoulos revealed [redacted] that individuals linked to Russia, who took interest in Papadopoulos as a Trump campaign foreign policy adviser, informed him in late April 2016 that Russia [two lines redacted]. Papadopoulos’s disclosure, moreover, occurred against the backdrop of Russia’s aggressive covert campaign to influence our elections, which the FBI was already monitoring.

That Papadopoulos had not told Downer in May they were emails was made clear by the next line in the Schiff memo, which made it clear HPSCI (but not the US government) only learned Russians had said the damaging material was email (which, if Papadopoulos can be trusted, he took to be the 30,000 emails that Hillary deleted, which the Russians would only have had if they had previously hacked her) when Papadopoulos’ plea was released.

We would later learn in Papadopoulos’s plea that the information the Russians could assist by anonymously releasing

were thousands of Hillary Clinton emails.

In any case, Downer's public statements, as summarized by Ross, confirm what Schiff claimed back in February: Papadopoulos told a virtual stranger in May 2016 that someone had recently approached him, a newly-minuted Trump advisor, and told him Russia had damaging material on Hillary that they were thinking of releasing closer to the election.

Downer makes it clear he reported the Papadopoulos within 48 hours because it "seemed quite interesting" and "was worth reporting." The Australians didn't tell the US, however, until July, after the DNC release made it look like Papadopoulos had predicted that event several months earlier. In response, the FBI opened a CI investigation, and Peter Strzok got on a plane and interviewed Downer. It's possible he checked in with Stefan Halper, who had been chatting up Carter Page, about whom the FBI had had enough concern to interview him back in March, for a few weeks. It's also possible Strzok asked the Brits what they knew about Joseph Mifsud (or it's possible NSA started targeting Mifsud and captured his communications with the Russians). It's also possible that the anonymous "Trump campaign policy adviser [who] testified [to SJC] that Mr. Papadopoulos informed him that he had information on Hillary Clinton from the Russians," went to the FBI in the wake of the DNC release, so before the FBI (presumably) asked Halper to ask Papadopoulos more questions.

Whatever happened, in September, Halper met with Sam Clovis and from that basically created a reason to invite Papadopoulos to London to do research.

Mid-September: "Hacking emails would be treason"

In mid-September, after his assistant Azra Turk had already broached the subject (I'm not aware that Ross has ever revealed how Papadopoulos

responded to her) Halper asked Papadopoulos whether he was involved in the release of the emails. According to one version among several, Ross reports that Papadopoulos said that “hacking” the emails would be treason.

Sources familiar with Papadopoulos’ version of events say that during one conversation, Halper asked Papadopoulos whether he was involved in the release of DNC emails. Papadopoulos denied it, telling Halper that hacking emails would be treason.

Of course, that answer is nonsensical. *Hacking* emails is a CFAA violation, among other things. Absent knowing cooperation with Russian spies, it’s not treason. Moreover, as Ross depicts the question, Halper asked if he “was involved in the release of DNC emails,” which is different than hacking them. Did Papadopoulos instead suggest that being “involved in the release of DNC emails” hacked by Russia would be treason?

It’s a good question because, in spite of that answer and his subsequent lies to FBI, Papadopoulos doesn’t believe he “colluded” with Russia because he, “did not see, handle or disseminate Clinton emails, according to the source with information on the Downer meeting.” Note, he’s pointedly *not* denying that he told the campaign about the damaging material in the context of efforts to set up increasingly senior-level meetings with the Russians.

January 27, 2017: Mifsud “actually told [Papadopoulos] that the Russians had emails of Clinton. That guy told me [the Russians] have dirt on her [and that] they have thousands of emails.”

When the FBI interviewed Papadopoulos on January 27, 2017, he provided a detail he hadn’t to Downer (but which FBI may have already confirmed elsewhere): that Mifsud had specified, even before the Democrats knew about it, that the Russians had thousands of emails.

Now, at least according to the public record, up until this point (and even later), the FBI hadn't done one of the most basic things they do in investigations, which they can do on a relevance standard (meaning the person in question need not be suspected of any wrongdoing). They had not yet obtained Papadopoulos' call records, nor had they searched already collected Section 702 data to see if Papadopoulos had had communications with any foreigner already under a full FBI investigation. The latter would have definitely alerted the FBI to something that Papadopoulos hid in his interviews with the FBI (and tried to hide by deleting his Facebook account, something Ross always leaves out of his efforts to spin Papadopoulos' honesty): in addition to Mifsud and the fake Putin niece, he had been communicating with (and passing communications onto the campaign) Ivan Timofeev, someone Papadopoulos believed to be employed by the Russian government.

DOJ's public Papadopoulos documents are curiously silent about whether he admitted that Mifsud had told him the Russians planned on releasing the emails to hurt Hillary (though I guarantee you his case file makes it clear).

Amid the squeals of surveillance, that point is worth noting. Again, at least according to the public record, it was some time *after* Papadopoulos had told Downer that the Russians had damaging material they might release closer to the election to hurt Hillary and *after* Papadopoulos had told the FBI that the damaging material in question was "thousands of emails" before the FBI took one of the most basic investigative steps, figuring out whom Papadopoulos had been talking to during that period. Though FBI put a preservation order on his campaign cell phone in March, it's even possible, given Papadopoulos' arrest in the wake of the disclosure of the June 9 meeting earlier in July 2017, that FBI didn't take that step until after the later Russian offer of dirt on Hillary became known.

Trump may well think this amounts to spying. But given the year of concern about Russian meddling, it looks even more like an effort to bend over backwards to avoid touching materials that might impact campaign issues.

Update: Thanks to Mark S for this link to the Downer piece. Ross did not include this stronger language that the material definitely would be damaging to Clinton. Note the bolded stronger language.

Of the conversation at the upmarket Kensington Wine Bar, Downer recalls: "We had a drink and he (Papadopoulos) talked about what Trump's foreign policy would be like if Trump won the election.

"He (Trump) hadn't got the nomination at that stage. During that conversation he (Papadopoulos) mentioned the Russians might use material that they have on Hillary Clinton in the lead-up to the election, which may be damaging."

Did Downer think, "Oh boy, this is intriguing?"

"Well, it was worth reporting," he said. "It wasn't the only thing we reported. We reported (back to Australia) the following day or a day or two after ... it seemed quite interesting."

Did you realise you were one of the first people to have known about this dirt?

Downer doesn't hesitate: "He didn't say dirt, he said material that could be damaging to her. No, he said it would be damaging. He didn't say what it was."

[snip]

"For us we were more interested in what Trump would do in Asia. By the way, nothing he (Papadopoulos) said in that conversation indicated Trump himself had

been conspiring with the Russians to collect information on Hillary Clinton. It was just that this guy (Papadopoulos) clearly knew that the Russians did have material on Hillary Clinton – but whether Trump knew or not? He didn't say Trump knew or that Trump was in any way involved in this. He said it was about Russians and Hillary Clinton; it wasn't about Trump."

[my emphasis]

PAUL MANAFORT WASN'T THE "CAMPAIGN BOSS" (YET) DURING THE JUNE 9 MEETING

Someday soon I'll be done reviewing the June 9 meeting materials. But as I'm revising my limited hangout post on it, I keep finding details I want to pull out.

When Don Jr told Rob Goldstone on June 7, 2016 who would attend the June 9 meeting, he said it'd be "Paul Manafort (campaign boss) my brother in law and me."

Now, it is true that Trump had named Manafort campaign chairman on May 19, as it became clear the reason he was ostensibly hired – to manage a contested convention – would not be necessary in the light of Trump sealing his win. That set off a month of in-fighting between Manafort and Lewandowski, ultimately leading to Lewandowski's firing – with the very active input of Trump's children – on June 20.

I find that interesting for two reasons. First, Roger Stone and Sam Nunberg had a role in making

Manafort's case publicly, though neither was associated with the campaign anymore. Mueller has reportedly shown some interest in meetings that took place during this period. In other words, the process by which Manafort (temporarily) won the battle for Trump's affection may be an investigative interest.

The detail is also interesting because that's how Don Jr (implausibly) explains his enthusiastic response to Goldstone's offer of information that would incriminate Hillary: "if it's what you say I love it especially if it's later in the summer." Don Jr explained that he was busy ousting Lewandowski at the time, which is why they didn't want dirt in June, but instead later in summer, when it came out.

Q. And in your response it says "If it's what you say, I love it, especially later in the summer." Specifically what did you love about it?

A . As I said in my statement, it was a colloquial term used to say, hey, great, thank you. I didn't want to deal with anything right now. We had other stuff we had to worry about, namely a potential contested convention. We were in the process of replacing Corey Lewandowski, who was the campaign manager, with Paul Manafort. There was a lot of stuff on our plate.

On top of being totally unconvincing, Don Jr's response is inconsistent with his response to Goldstone, which treated Manafort as the boss already.

Steve Bannon has suggested that the June 9 meeting happened because Don Jr was vying to impress his dad even as Jared assumed a greater role in the campaign. But I think at least possible—particularly given the way the Trump team tried to downplay Manafort's role in the meeting—that the meeting happened because Manafort was vying for power with Corey

THE SAME DAY ARAS AGALAROV WAS TALKING ABOUT RESTORING COMMUNICATION WITH TRUMP, JARED KUSHNER PITCHED A BACK CHANNEL

I want to pull out a few details regarding the December 1, 2016 meeting between Mike Flynn, Jared Kushner, and Russian Ambassador Sergey Kislyak that come out of the SJC materials released some weeks back. They show that the same day that Jared pitched Kislyak on a back channel, Trump's handler was in Moscow trying to figure out how to restore communications in the wake of the election.

In his statement (remember, he chickened out of testifying before SJC after Flynn pled guilty, though he attributed the decision to Dianne Feinstein's release of Glenn Simpson's transcript), Kushner stated that Kislyak requested the meeting on November 16.

On November 16, 2016, my assistant received a request for a meeting from the Russian Ambassador.

On November 18, Ike Kaveladze texted Aras Agalarov, following up on a phone conversation they had already had, reporting on Rob Goldstone's outreach to the Trump team to set up a second meeting with Natalia Veselnitskaya to

discuss Magnitsky sanctions again.

Q. Could you please take a look at the entry for November 18, 2016, at 17:45. This appears to be a message from you to Aras Agalarov. Mr. Kaveladze, could you please translate the content of that message?

A. "Hello. Rob spoke with Trump people. They asked a short synopsis of what is she going to be discussing. Last time she produced a lot of emotions and less facts. Most of the people who took part in that meeting are moving to Washington, D. C. Some of them already fired. When they receive synopsis, they will decide who to send to that meeting."

The text is bizarre for several reasons. While Kaveladze's English is not great, the description of what has happened to the attendees at the June 9 meeting would suggest more than three attendees, not least because by saying "some" people got fired suggests more than one person – Paul Manafort – had been. In any case, the text makes it clear that the Agalarovs had already started their efforts to resume the discussion about raising Magnitsky sanctions first presented during the summer, which Don Jr had said in that meeting they would revisit after his father won.

Indeed, while we don't know when those calls occurred, the outreach seems to nearly if not exactly coincide with Kislyak's outreach to Kushner, the one known June 9 meeting attendee who was already headed to Washington.

In his testimony, Goldstone claimed he hadn't done the outreach clearly reflected in Kaveladze's text and hadn't forwarded Veselnitskaya's document the previous week, as reflected in another text to Kaveladze.

Q. So in your November 27th message to Mr. Kaveladze, you said you forwarded

the information last week. The last email was an email sent on November 28th, the day after this message with Kaveladze, forwarding the document to Ms. Graff. Had you, in fact, forwarded the document the week before your November 27th message with Kaveladze?

A. I don't recall, but because I know myself, and I know how I write, I would imagine that the minute he reminded me of it in here, I forwarded it to Rhona, probably the next day. So I don't recall one before then, no.

Q. All right. Prior to sending that email to Ms. Graff on November 28th, 2016, did you speak with Ms. Graff or any other Trump associates about a second meeting with Veselnitskaya?

A. I don't believe so.

The Kaveladze transcript and his text messages reveal that the efforts to get Veselnitskaya back in to meet with the Trump team continued for the rest of November.

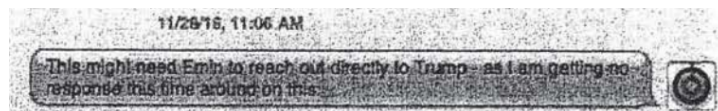
Probably because he was interviewed before Kaveladze's documents were provided to the committee, Don Jr was not asked about any of those texts (and Goldstone wasn't asked about the Kaveladze ones that clearly rebutted his story). Don Jr was asked only about a November 28, 2016 email from Goldstone to Rhona Graff forwarding Veselnitskaya's document, which was not CCed to Junior. Even though he was probably the one whom Goldstone spoke to and was instructed by to send a synopsis and probably got a synopsis a week before Graff did, Junior claimed not to recall any other follow-up besides the email to Graff.

Q. It appears Mr. Goldstone continued his anti-Magnitsky effort beyond your June 9, 2016 meeting. Other than this email, were you aware of any other effort he made on this issue after your

meeting?

A. Not that I recall, no.

Goldstone told Kaveladze he made a bunch of calls following up on the synopsis on November 28, but got no response (though he testified he didn't make the calls because he didn't want to pitch the second meeting). He also texted Kaveladze about having Emin call "Trump" (presumably Junior) directly.



In a text on November 29 to Veselnitskaya, Kaveladze explained, without describing from whom Goldstone had learned this, that "Robert says that logistics of organizations of meetings with Team Trump now would be difficult and lengthy. I've landed in Moscow. I will discuss this situation ... with my boss."

The next day, December 1 at 11:49AM, Kaveladze texted again (Veselnitskaya was by this point frantic because Trump had met with Preet Bharara, with her even discussing who Trump might, "Wet and not to wet" with respect to the US Attorney, which Kaveladze translated as "crush"), explaining that Aras planned on meeting with Trump to restore communications. "Unfortunately, we don't have communication. My boss planned to meet with him. We will send a formal request. Hopefully after the meeting we will keep communication."

The timing on all of Kaveladze's communications are difficult to track since he travels to Moscow so often, but his time stamps probably reflect PT, meaning that text would have been sent in the evening Moscow time, which is 7 hours ahead of DC.

On December 1, Jared Kushner (the one June 9 meeting attendee definitely on his way to DC at that point) and Mike Flynn met with Sergey Kislyak. *Even according to Jared's prepared*

statement, that meeting was about establishing communication channels to Russia.

The meeting occurred in Trump Tower where we had our transition office, and lasted twenty-thirty minutes. Lt. General Michael Flynn (Ret.), who became the President's National Security Advisor, also attended. During the meeting, after pleasantries were exchanged, as I had done in many of the meetings I had and would have with foreign officials, I stated our desire for a fresh start in relations. Also, as I had done in other meetings with foreign officials, I asked Ambassador Kislyak if he would identify the best person (whether the Ambassador or someone else) with whom to have direct discussions and who had contact with his President. The fact that I was asking about ways to start a dialogue after Election Day should of course be viewed as strong evidence that I was not aware of one that existed before Election Day.

The Ambassador expressed similar sentiments about relations, and then said he especially wanted to address US. policy in Syria, and that he wanted to convey information from what he called his "generals." He said he wanted to provide information that would help inform the new administration. He said the generals could not easily come to the U.S. to convey this information and he asked if there was a secure line in the transition office to conduct a conversation. General Flynn or I explained that there were no such lines. I believed developing a thoughtful approach on Syria was a very high priority given the ongoing humanitarian crisis, and I asked if they had an existing communications channel at his embassy we could use where they would be

comfortable transmitting the information they wanted to relay to General Flynn. The Ambassador said that would not be possible and so we all agreed that we would receive this information after the Inauguration. [emphasis original]

Of course, intercepts of Kislyak's calls back to Moscow captured his alarm that Kushner wanted to use Russian diplomatic facilities to communicate with Russia.

Ambassador Sergey Kislyak reported to his superiors in Moscow that Kushner, son-in-law and confidant to then-President-elect Trump, made the proposal during a meeting on Dec. 1 or 2 at Trump Tower, according to intercepts of Russian communications that were reviewed by U.S. officials. Kislyak said Kushner suggested using Russian diplomatic facilities in the United States for the communications.

[snip]

Kislyak reportedly was taken aback by the suggestion of allowing an American to use Russian communications gear at its embassy or consulate – a proposal that would have carried security risks for Moscow as well as the Trump team.

In any case, this makes it clear that *the same day* that Trump's handler, Aras Agalarov, was discussing restoring communication channels with Trump in the post-election period, Jared was pitching the Russian Ambassador on using Russian facilities to conduct such communication. And even though Kushner claims he and Kislyak deferred such communications until after the inauguration, we know that within weeks, Kislyak had set up a meeting with the head of a sanctioned bank to meet with Kushner, a meeting that would precede Flynn's calls with Kislyak about delaying any response to Obama's December

28 sanctions, which would, in turn, lead to another meeting in Seychelles, all before the inauguration.

Natalia Veselnitskaya never got her second meeting to pitch the end to Magnitsky sanctions, but Sergey Gorkov got a meeting.

One more detail. Kushner's statement suggests the meeting with Kislyak took place in formal transition space. But that's not the case.

Don Jr revealed that meeting took place in his office (he came in at the end, sweaty from a workout).

Q. You mentioned during the conversation with my colleagues that you had become aware of a meeting or meetings with Ambassador Kislyak. Can you just explain like what meetings did you become aware of? When did they take place?

A. I don't remember the exact timing of when they took place. I believe it was after we had already secured – meaning after the election, but I could be mistaken. The only reason I'm aware of it is because it occurred in my office. I came back from the gym and they were in there.

Q. So when you say after the election, you mean after November 8, 2016?

A. I believe so.

Q. Was it a meeting in December of 2016?

A. That would fit the description, yes, I believe so.

Q. So it was a meeting in Trump Tower?

A. Yes.

Q. In your office but you hadn't known about it beforehand?

A. Correct.

Q. Do you know why they used your

office?

A. It was open, I was at the gym.

Q. And who was in that meeting?

A. I believe it was Jared Kushner, the Ambassador, maybe Flynn, but I don't remember.

Q. Anyone else, to the best of your recollection?

A. No, not that I recall.

Q. Was the meeting still ongoing when you returned?

A. I believe it was, yes.

Q. Did you go in and join the meeting?

A. No, I did not.

Q. Why not?

A. Because I didn't know what it was about and I was sweaty from the gym.

Q. Did you ask Mr. Kushner or Lieutenant General Flynn about the meeting after?

A. No, I don't think I did.

Don't people shower at the gym before they head back to work? Especially if it's a fancy schmancy private gym?

At the very least, this suggests that the meeting between Kushner, Flynn, and Kislyak took place outside of formal transition space, which might mean it took place outside the view of Secret Service (a habit Don Jr himself adopted the following year for a period). Don Jr's claims to have been at the gym, ignorant to the meeting that seemed to parallel one taking place that day in Moscow between Agalarov team members in the wake of discussions about Emin reaching out to Don Jr, are suspicious, not least because he claimed to have forgone the normal shower process following a workout. Had he been in the

meeting, you'd think Kislyak would have reported that back. Maybe he did.

But one thing is clear: In NYC and Moscow, on the same day, the Trump team and their Russian handlers were trying to figure out how to restore communications in the wake of the election.

WHY WAS PAUL MANAFORT FIRED?

In an attempt to sow outrage because the lifetime Republican Stefan Halper asked Carter Page and George Papadopoulos some questions, the frothy right is now focusing on why DOJ didn't tell Donald Trump his campaign, the one that asked all manner of people to work for "free," was infested with suspected foreign assets. They point to this passage in the GOP House Intelligence Report to suggest that if only DOJ had told Trump which of the suspected assets in his campaign they knew about, he would have fired them.

The Trump campaign did not receive a general counterintelligence briefing until August 2016, and even then, it was never specifically notified about Papadopoulos, Page, Manafort, or General Flynn's Russia ties. 10.; Further, the counterintelligence briefing provided to Trump and his top advisors did not identify any individuals by name, but rather focused on the general threat posed by adversaries, including Russia and China.

The suggestion that Trump would have fired these men is mostly without merit – after all, after President Obama gave Trump very specific warnings about Mike Flynn, Trump promoted him to

oversee all of national security.

Moreover, these frothy defenders of individual liberty are effectively demanding that some kind of Nanny Running Mate do the vetting that – as the HPSCI report also admits – Trump never did.

While the Committee will not go into further detail on the charges against Manafort due to ongoing litigation concerns, Special Counsel Mueller's indictment of Manafort illustrates the necessity for U.S. presidential campaigns to better investigate individuals who serve in senior positions within the campaign. If the accusations against Manafort are true, he should have never served as a senior official with a campaign for the U.S. presidency, much less campaign chairman or manager.

I mean, sure, DOJ could have done the vetting of Trump's "free" staffers that the billionaire candidate refused to do, but it would have involved the kind of review of communications and balance sheets that Trump would call "Spying," and it'd be much more intrusive "Spying" than asking lifetime GOP operative Halper to ask a few questions.

All that said, particularly giving how it took place the day after Trump's first intelligence briefing on August 17, I am increasingly interested in the campaign's decision to fire Paul Manafort. Here's how the GOP House Intelligence Report spins it.

Then-campaign manager [Corey Lewandowski] testified that, when Manafort was hired, [redacted] made no attempt to vet him and was entirely unaware of Manafort's past work in Ukraine.⁸⁵ In May 2016, Manafort was promoted to campaign chairman and, after [Lewandowski] was fired the next month, "evolve[d]" into the role of de facto campaign manager.⁸⁹

(U) Manafort left the campaign in August 2016 following news reports that he had received \$12.7 million in secret payments for his work on behalf of Yanukovich's Party of Regions; news reporting also alleged that Manafort and his aide Rick Gates had "directly orchestrated a covert Washington lobbying operation" on behalf of the party—while failing to register⁹⁰ as foreign agents. Campaign press secretary Hope Hicks recalled that, after receiving press inquiries about Manafort's "professional history," a major story broke⁹¹ on the evening of August 14, 2016. According to Hicks, "Trump had made a decision to make a change in leadership on the campaign outside of Paul's issues that were being publicly reported," but those issues "certainly contributed to expediting and intensifying the way in which his role changed, and then ultimately he was fired at the end of that week."⁹² Trump directed his son-in-law Jared Kushner to ensure Manafort departed the campaign on August 19, which he did.⁹³ As Kushner put it, "[t]here was a lot of news that was out there and the decision was that it was time for him to resign."

But here's the story as told by Don Jr in his admittedly demonstrably false testimony to the Senate Judiciary Committee.

Q. And returning briefly to Mr. Manafort, what was your understanding of how Mr. Manafort ceased to be affiliated with the campaign?

A. I believe there was stuff coming out about Paul that he denied, but he didn't want to drag any other aspects of that life into the campaign and the work that we were doing. So he removed himself from his position as campaign chairman.

Q. And did he discuss with you or, to the best of your knowledge, anyone else on the campaign his ties with Ukrainian business or Russian interests, his alleged ties?

A. No, not that I recall.

Now, these are not entirely inconsistent stories. In both versions, when Manafort's ties to Yanukovich became a liability, he was ousted. Though if Manafort's ties to Ukraine were the primary problem, then Rick Gates should have been ousted at the same time, and he not only remained on the campaign, but stayed on through the inauguration, helping Tom Barrack sell foreigners (including, but not limited to, wealthy Russians) inauguration access.

But, for starters, I find it absurd to suggest that Manafort was ousted because of allegations about his ties to Russia and Ukraine, but that he never spoke about that with the family. You might argue that Don Jr just remained ignorant of the details, but Trump's spawn, including Don Jr., were instrumental in ousting Lewandowski and elevating Manafort in the first place, so I find it doubtful Manafort would in turn be ousted without their feedback. Indeed, Jared's reported role in the firing makes it clear he, at least, was centrally involved.

So I find Junior's claim that he didn't discuss his Ukrainian and Russian ties just as dubious as these other answers.

Q. Are you aware of any ties, direct or indirect, past or present, between Mr. Manafort and the Russian government?

A. I've read that since, but I'm not aware of anything specific, no.

Q. Were you aware of Mr. Manafort's relationship with and work on behalf of Viktor Yanukovich?

A. Again, I've heard that since, but not at the time, no.

[snip]

Q. Do you know Konstantin Kilimnik?

A. Not that I'm aware of.

Plus – something that always gets forgotten in this timeline – between the time the most damning NYT story came out, the time Trump got his first intelligence briefing on August 17 and the day Trump fired Manafort on August 19, he demoted him, also on August 17, putting Steve Bannon and Kellyanne Conway in charge.

Donald Trump, following weeks of gnawing agitation over his advisers' attempts to temper his style, moved late Tuesday to overhaul his struggling campaign by rebuffing those efforts and elevating two longtime associates who have encouraged his combative populism.

Stephen Bannon, a former banker who runs the influential conservative outlet Breitbart News and is known for his fiercely anti-establishment politics, has been named the Trump campaign's chief executive. Kellyanne Conway, a veteran Republican pollster who has been close to Trump for years, will assume the role of campaign manager.

[snip]

Trump issued a statement hours later. "I have known Steve and Kellyanne both for many years. They are extremely capable, highly qualified people who love to win and know how to win," he said. "I believe we're adding some of the best talents in politics, with the experience and expertise needed to defeat Hillary Clinton in November and continue to share my message and vision to Make America Great Again."

[snip]

Trump's stunning decision effectively

ended the months-long push by campaign chairman Paul Manafort to moderate Trump's presentation and pitch for the general election. And it sent a signal, perhaps more clearly than ever, that the real estate magnate intends to finish this race on his own terms, with friends who share his instincts at his side.

Manafort, a seasoned operative who joined the campaign in March, will remain in his role, but the advisers described his status internally as diminished due to Trump's unhappiness and restlessness in recent weeks over his drop in the polls and reports over lagging organization in several key states. He told some friends that he was unsure if he was being given candid assessments of news stories and the campaign's management.

While Trump respects Manafort, the aides said, he has grown to feel "boxed in" and "controlled" by people who barely know him. Moving forward, he plans to focus intensely on rousing his voters at rallies and through media appearances.

Even after the NYT black ledger story, Manafort was being portrayed as a moderating influence in Trump's campaign. Reports about Manafort's firing focus more on his treatment of Trump as a child than on his corruption. Even the NYT's coverage of the firing, in the wake of their blockbuster black ledgers story, minimized the import of that on his ouster, waiting until the very last paragraphs of a long article to describe how the stories led to his loss of support among his kids, especially Jared.

At the same time, the new accounts of Mr. Manafort's ties to Ukraine quickly eroded the support that he had from Mr. Trump's family during his earlier battles with Mr. Lewandowski.

According to people briefed on the matter, Jared Kushner, Mr. Trump's son-in-law, expressed increasing concern after a Times article published on Sunday about allegations of cash payments made to Mr. Manafort's firm for his work on behalf of his main client, Viktor F. Yanukovich, the former Ukrainian president, who is an ally of Mr. Putin.

Mrs. Clinton's campaign has repeatedly sought to yoke Mr. Trump to Mr. Putin, citing Mr. Trump's praise for the Russian leader. And the avalanche of stories about his work for pro-Russian entities in Ukraine were becoming untenable for the campaign, according to people briefed on the discussions.

"The easiest way for Trump to sidestep the whole Ukraine story is for Manafort not to be there," said Newt Gingrich, the former House speaker who has become a counselor to Mr. Trump.

In North Carolina on Thursday, Mr. Trump was informed of the newest such report: an Associated Press article that, citing emails, showed that Mr. Manafort's firm had orchestrated a pro-Ukrainian lobbying campaign in Washington without registering as a foreign agent.

That was enough, according to people briefed on the calls, for Mr. Trump to call Mr. Bannon and Ms. Conway.

I raise this for two reasons. First, retaining Gates while firing Manafort shows that the concern about Russian ties was only PR, at best. I admit when I first started writing this, I thought firing Manafort might have been a reaction against his willingness to chum up to Russia, possibly up to and including sharing information via Kilimnik with Oleg Deripaska. I believe that at various times in the Trump

campaign, he tried to get out of the devil's bargain he made with Russia, and entertained the possibility that firing Manafort was one of those efforts. But the retention of Gates makes that unlikely.

All that said, Don Jr's explanation, like his father's, are convenient post hoc justifications (though this Corey Lewandowski story, which relies on Steve Bannon's, has the same emphasis).

Still, I find the coincidence of the decision to fire Manafort and that first briefing to be interesting. Did the warning that Russia was attempting to infiltrate his campaign make him more sensitive to Manafort's burgeoning Russia scandal?

One way or another, I'd love to revisit the events of that week to measure how much Trump and Junior – as distinct from Jared – cared about Manafort's ties with Russia.

THE PSY-GROUP PRESENTATION SUGGESTS ONLINE TROLLS SWUNG RICHARD BURR'S STATE OF NORTH CAROLINA

The WSJ reports that Mueller's team has obtained an analytical document from Psy-Group, the company of Joel Zamel, that was offering to help the Trump campaign both before and after the election.

Special counsel Robert Mueller's investigators have obtained a

presentation prepared by an Israel-based private intelligence firm that outlines ways in which Donald Trump's 2016 election was helped by fake news and fake social-media accounts, according to people familiar with the presentation and documents reviewed by The Wall Street Journal.

[snip]

Psy-Group's founder, Joel Zamel, is under scrutiny from U.S. investigators because of his close relationship with the government of the United Arab Emirates and his involvement in a meeting with Mr. Trump's eldest son shortly before election day, the Journal has reported.

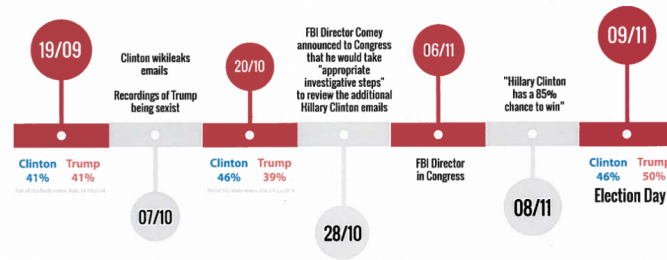
Mr. Zamel met with Donald Trump Jr. at Trump Tower in the weeks before the 2016 election along with George Nader, a top adviser to the crown prince of the United Arab Emirates, to discuss an offer to help boost the campaign, according to people familiar with the matter. Erik Prince, a U.S. defense contractor who specializes in the Middle East and had close ties to the campaign, attended the meeting, the Journal previously reported. People involved in the meeting say nothing came of it and the Psy-Group didn't perform any work for the Trump campaign.

The presentation the Special Counsel is apparently scrutinizing is 9 pages; most pages describe generically how to seed bots to later swing opinion. But there's one page that purports to show how this works in a swing state. That swing state is North Carolina.

Trump Campaign Challenge

Case Study: Swing State, North Carolina

"Trump won the presidency with razor-thin margins in swing states"



While we can't measure Psy-Group's claims without a script, it seems that the group claims social media helped Trump turn a 7 point deficit in the wake of the Access Hollywood tape to a 4 point win on election day.

NC is an interesting choice because Trump also benefitted from the most aggressive voter suppression drive in the state. And because it's the state for which Russian hacking – of VR Systems and, possibly, of poll books in disproportionately democratic precincts – may have actually affected the election.

It's interesting for one more reason: it's the state of Senate Intelligence Committee Chair (and Trump NatSec advisor, during the election) Richard Burr. Burr won his race by more than Trump did, but still within the scope of the swing mapped out by Psy-Group.

U.S. Senate, North Carolina General Election, 2016 [hide]			
Party	Candidate	Vote %	Votes
Republican	✓ Richard Burr <i>Incumbent</i>	51.1%	2,395,376
Democratic	Deborah Ross	45.4%	2,128,165
Libertarian	Sean Haugh	3.6%	167,592
Total Votes			4,691,133
Source: North Carolina State Board of Elections			

As I noted, the election tampering report generated by Burr's committee, largely failed to address the vulnerability and importance of vendors like VR Systems.

Obviously, if trolls made the difference in NC, they also made the difference in PA, MI, and WI.

But we might not find that out, because the guy in charge of the purportedly responsible investigation of such things has scoped the investigation in such a way that his own re-election could not be questioned.

THE WHITE HOUSE HID PAUL MANAFORT'S ENTHUSIASM FOR THE JUNE 9 MEETING WHEN LEAKING DON JR'S EMAIL

Among the most intriguing questions Robert Mueller wants to ask the President – as interpreted by Jay Sekulow – is a subset of the one asking about Trump's involvement in the statement about the June 9 meeting. In addition to asking about that, Mueller specifically wants to know whether Trump was involved in releasing Don Jr's emails with Rob Goldstone setting up the meeting. Here's how I wrote up that question in my series.

***JULY 7, 2017: WHAT
INVOLVEMENT DID YOU
HAVE IN THE
COMMUNICATION
STRATEGY, INCLUDING
THE RELEASE OF
DONALD TRUMP JR.'S***

EMAILS?

I've laid out that I believe the evolving June 9 story is a limited hangout orchestrated by Agalarov lawyer Scott Balber. The strategy would have begun when Jared Kushner wrestled with the need to disclose the meeting, both in response to congressional investigations and for his clearance. Manafort, too, turned over emails backing the event about a month before the story came out publicly. **This post** talks about the response the weekend of the G-20 in Hamburg, including Ivanka sitting in on a meeting so Trump could strategize, and Hope Hicks suggesting the emails would never come out.

As a reminder, on the same day Trump had a **second hour long meeting with Putin**, he dictated Putin's propaganda line that the meeting pertained to adoptions. Importantly, he hid what I've suggested was the quo in the quid pro quo, sanctions relief. Mueller undoubtedly would like to know if Putin helped him come up with that message, which would be really damning.

Mueller also wants to know about the decision to leak Don Jr's emails. Bannon suspects that a Jared aide leaked the emails (his then lawyer Jamie Gorelick would cut back her work with him shortly thereafter). But remember: in a DM, Assange **proposed** that he give Wikileaks the email.

There's clearly far more back story to the leaked email we don't know yet.

If Trump's involvement here involves coordination with Russians (like the Agalrovs, to say nothing of Putin) or Assange, it would provide damning evidence not of obstruction, but of

collusion, an effort to coordinate a story about a key meeting. Trump's lawyers have always suggested questions about Trump's role in this statement are improper, which is itself a telling indicator that they don't understand (or want to spin) the risk of the original June 9 meeting.

I've now done a first pass at all the Senate Judiciary Committee testimony released a few weeks back relating to the June 9 meeting and will update my limited hangout post hopefully over the weekend. Even assuming all witnesses were fully forthcoming (they weren't), the SJC materials provide abundant evidence that the White House worked with the other attendees of the June 9 meeting – including the Agalarov representatives, and through them, the Agalarov family itself – to minimize the damage of the meeting. And they did it over a longer period of time than previously known.

Of particular interest, however, is a detail revealed about the email that Don Jr released last summer. Effectively, the email thread setting up the meeting appears in two places in the exhibits introduced with Don Jr's testimony. The thread appearing at PDF 26 to 29 is for all intents and purposes the set he released over two tweets last July 11. That bears Bates stamp DJTJR 485 to 487, which designates that it was the version that Don Jr himself turned over. There's another version of that thread, though, bearing Bates stamp DJTFP 11895 to 11897, which appears at PDF 1 to 3 in Don Jr's exhibits (and is used for all the other witnesses). The Bates stamp abbreviation DJTFP, Donald J Trump for President, indicates that that's the version turned over by the campaign. The exhibit shows the same thread, only with this addition.

Message

From: Paul Manafort [REDACTED]
Sent: 6/8/2016 12:44:52 PM
To: Donald Trump Jr. [REDACTED]
Subject: Re: Russia - Clinton - private and confidential

See you then.
P

That is, after Don Jr informed Jared and Paul Manafort that the meeting would be at 4 instead of 3, Manafort responded, "See you then."

That – and the fact that Don Jr chose to suppress it when publicly releasing his email – is not by itself damning. Nor is the fact that Don Jr tried to suggest that both Jared and Manafort had no idea what the meeting was about in his public statement.

I told Rob that Jared Kushner and our newly hired campaign manager Paul Manafort would likely also attend . I then asked Jared and Paul if they could attend, but told them none of the substance or who was going to be there since I did not know myself. Because we were in the same building Paul, Jared, and I would routinely invite one another to attend meetings at a moment's notice.

When Democratic Chief Oversight Counsel Heather Sawyer asked Don Jr about which version he released publicly, Don Jr's (actually, the Trump Organization's) lawyer Alan Futerfas immediately butted in to offer an excuse about multiple custodians.

MR. FUTERFAS: Just so the record's clear, there were multiple custodians to this e-mail. So if the campaign produced an e-mail the campaign may have because different custodians were being searched. We have found that there was – I think there was a few words that are additional to Exhibit 10, including the "See you then," and I think we also found earlier one there was another again, another similar kind of brief exchange, but I think that was a

function of the different custodians that were participating in this little dialogue .

After which Sawyer first noted that that other change might be discussed off the record, then questioned the President's son about how he chose which email to release. Futerfas interrupted again to note that counsel had been involved.

BY MS . SAWYER: Q. We can talk off the record about the other change, but with regard to the document that was produced to the committee, Exhibit 10, to the best of your knowledge, is that the full exchange?

A . Well, whichever one is the longer I believe is the full exchange. I don't know, but I'm not aware of anything else.

Q. Has it been altered in any way?

A. No.

Q. Have any of the communications been removed by anyone?

A. Not that I'm aware of, no.

Q. You released a version of the e-mail by Twitter. How did you decide what version of the e-mail chain to release?

A. I don 't know. It's the version I pulled up.

Q. And did you consult with anyone in deciding to do that?

MR . FUTERFAS: Aside from counsel?

MS. SAWYER : Yes, aside from counsel.

BY THE WITNESS: A. All those conversations counsel was involved.

Interjection: note that Don Jr doesn't claim

that *only* counsel was involved? Continuing ...

Q. Okay. And did you seek their advice?

A. Counsel?

Q. Yes.

A. Yes.

Q. And who was representing you?

A. The two gentlemen here, Alan Garten and Alan Futerfas.

Q. And they were representing you personally?

A. Yes, I believe so.

MR. FUTERFAS: Yes .

BY MS . SAWYER: Q. And they were involved in all the conversations you had about release of that e-mail?

A. Yes, they were.

In other words, Don Jr and Futerfas suggested – Hope Hicks’ publicly reported central role as a go-between notwithstanding – that any conversations he had about which version of the email to release were protected by Attorney-Client privilege.

Don Jr’s decision, taken on the advice of his counsel, to withhold the Manafort email is why I find it very interesting that Don Jr twice testified that he only discussed the meeting with Jared and Manafort via email, and repeatedly denied talking to Manafort directly about it.

Q. You got an e-mail with a title “Russia- Clinton, private and confidential,” you didn’t mention that to Paul Manafort?

A . Other than that I forwarded the e-mail to him to invite them to the meeting, I didn’t discuss it with him to my

recollection, no.

Q. And you said you forwarded it. That was the only time you recall discussing it with him?

A . That's the only time I recall , yes.

Q. And Exhibit 1 which you reviewed with my colleagues indicates that you forwarded it on June 8, 2016 . At that point there's just a reference to "Meeting got moved to 4:00 tomorrow at my office," Mr . Manafort responds " See you then." Had you not discussed the meeting with him before that time?

A. I don 't recall discussing it with him at that time, but I may have.

Q. How would he have known what this meeting was about i f you had not discussed it with him?

A. I don 't know.

Q. Did he ever ask you about it?

A. Not that I recall.

[snip]

Q. Did you tell Mr . Manafort [about the ultra-sensitive email]?

A. As I said, I don't recall telling him anything about it other than the exchange as it relates to setting up the meeting.

After having denied talking to Kushner and Manafort about the meeting (and forgetting another call from Emin Agalarov), Don Jr tried to play dumb about a phone call he had with Manafort on June 7, between the time he had that forgotten call with Agalarov and the time Rob Goldstone wrote to schedule the meeting at 4:20PM.

Q. The next unblocked – unredacted call

is a call at 4:07 p.m., it says "Arlington , VA" and has a 703 number. You indicated to my colleagues you didn't recall who that was. Is that the case?

A. I don't know who it is now, no, I don't.

Q. Would you be surprised if I told you that a Google search shows that's Paul Manafort's number?

A. I don't know. It may be.

Q. You don't recall speaking with him on June 7th?

A. No, I don't recall that.

Q. You don't recall speaking to him that day about this meeting?

A. No, I don't.

Q. Or the e-mail from Mr. Goldstone ?

A. No. I spoke to Paul quite often.

Nor did Don Jr remember calls he had with Jared and Manafort on June 5, the day before he spoke with Emin about the meeting by phone.

Q. Then just to take you back a page on this same exhibit to [Bates stamp] 854, just go back one page.

A. Okay.

Q. You'll see "Sunday, 6/5" at the bottom of that page.

A. Yes.

Q. And as I indicated to you earlier, you got the e-mail from Mr. Goldstone on a Friday.

On Sunday there are two calls that have been unredacted. One's at 4:28 to Arlington, Virginia, same number, Mr. Manafort's number. Do you recall

speaking to him on that Sunday?

A. I don't, no.

Q. Do you know if you spoke to him possibly on that Sunday about Mr. Goldstone's e-mail or that meeting?

A. No. I don't recall having those conversations.

Q. About 15 minutes later there's another call to New York, New York, 917. Do you know whose number that is?

A . I could probably find out, but I don't know off the top of my head.

Q. If I told you that a search of – a Google search of that indicates that it's Mr. Kushner's number, would that surprise you?

A . No.

Q. And do you recall speaking with him on that Sunday?

A. No, I don't.

As a reminder, Mueller's team raided Paul Manafort's house between the time he testified before the Senate Intelligence Committee and the day he was supposed to testify before SJC; the warrant for that raid covered materials about the June 9 meeting. The raid gave Manafort an excuse not to answer questions about whether he remembers the substance of those calls. Remember, too, that Manafort is trying to suppress the seizure of devices – like iPods – that can be used to record meetings.

And Robert Mueller wants to know whether the President was involved in the decision to hide Paul Manafort's enthusiasm for this meeting.

ON CREDICO AND STONE AND HILLARY'S PURPORTED LIBYA EMAIL

WSJ has an underreported story revealing that Roger Stone emailed Randy Credico seeking specific emails from Wikileaks in September 2016.

Former Trump campaign adviser Roger Stone privately sought information he considered damaging to Hillary Clinton from WikiLeaks founder Julian Assange during the 2016 presidential campaign, according to emails reviewed by The Wall Street Journal.

The emails could raise new questions about Mr. Stone's testimony before the House Intelligence Committee in September, in which he said he "merely wanted confirmation" from an acquaintance that Mr. Assange had information about Mrs. Clinton, according to a portion of the transcript that was made public.

In a Sept. 18, 2016, message, Mr. Stone urged an acquaintance who knew Mr. Assange to ask the WikiLeaks founder for emails related to Mrs. Clinton's alleged role in disrupting a purported Libyan peace deal in 2011 when she was secretary of state, referring to her by her initials.

"Please ask Assange for any State or HRC e-mail from August 10 to August 30—particularly on August 20, 2011," Mr. Stone wrote to Randy Credico, a New York radio personality who had interviewed Mr. Assange several weeks earlier. Mr. Stone, a longtime confidant of Donald Trump, had no formal role in his

campaign at the time.

I say it's underreported for two reasons: as presented, WSJ doesn't really explain why this is news. It doesn't show that the emails were responsive to HPSCI's request, a point made by Stone's attorney in the story and not refuted by Adam Schiff. Furthermore, Credico claims he never really asked Julian Assange for any emails (which may be one of the reasons Stone's lawyer deems the exchange unresponsive). Schiff claims that this exchange suggests Stone was misleading at best in his testimony.

Adam Schiff (D., Calif.), the ranking member of the House Intelligence Committee, said the emails hadn't been provided to congressional investigators. "If there is such a document, then it would mean that his testimony was either deliberately incomplete or deliberately false," said Mr. Schiff, who has continued to request documents and conduct interviews with witnesses despite the committee's probe concluding earlier this year said.

But for reasons I'll explain, I think Stone may have been technically correct in his statement.

Another way the story is underreported is because WSJ doesn't explain – or even consider – what emails Stone might be talking about, a silence that has led sloppy readers to assume these are a reference to known hacked emails.

The email may be a reference to emails believed by some to be hacked!

But absent any explanation what the emails are, they should be assumed to be the emails released by State in response to Jason Leopold and others, which Wikileaks only curated. There are several that might fit Stone's criteria, including some of the ones based on intelligence from Sid Blumenthal that drove the nutters crazy.

That said, the withheld emails may be newsworthy for reasons WSJ doesn't lay out.

First, consider the fact that as part of Don Jr's SJC interview, he was asked about people who may have been involved in the Peter Smith effort to find Hillary's deleted emails, from Russian hackers if need be. The last person included was Stone.

Q. Did you or anyone else make any effort to obtain Hillary Clinton's e-mails?

A. No.

Q. Did you or anyone else ever receive Hillary Clinton's e-mails other than something that might have been publicly published ?

A. No.

Q. Do you know who Peter Smith is?

A. No .

Q. Were you aware of Mr. Smith's efforts to obtain Hillary Clinton's e-mails?

A. I don't recall knowing Peter Smith. So I'm not aware of his efforts. Who was he?

Q. There's been public reporting on him. So it's in the press.

A. Okay. I haven't seen it.

Q. Do you know if any of the following people made any efforts to obtain Secretary Clinton's e-mails. Michael Flynn?

A. I don't know.

Q. Steve Bannon?

A. I don't know.

Q. Kellyanne Conway?

A. I don't know.

Q. Sam Clovis?

A. I don't know.

Q. Carter Page?

A. I don't know.

Q. Roger Stone ?

A. No idea.

We shouldn't necessarily make that much of the fact that Stone appears on this list, both because no one on it has been confirmed to have been involved in Smith's efforts, and because he'd be the most likely person to be involved in any case. Nor do I make too much out of the fact that Don Jr answered differently on Stone – “no idea” – than the “I don't know” he offered for everyone else.

That said, this does seem to confirm Stone is among the people alleged to be involved in the effort.

The Peter Smith operation is something Stone assiduously avoided addressing in his statement to Congress.

Now consider that on August 10, 2016, Stone tweeted, “Assange, you see has all the @HillaryClinton e-mails @HumaAbedin thought she and @CherylMills erased #busted.” (Thanks to Susan Simpson for noting that Stone's deleted account can be found and searched on the Trump Twitter Archive site.) That tweet would have fallen right between the time Stone told Sam Nunberg he had been speaking with Assange on August 5 and the time he started chatting via DM with Guccifer 2.0 on August 14. That's also the timeframe Matt Tait said Smith reached out having *already received* emails from someone on the Dark Web.

A few weeks later, right around the time the DNC emails were dumped by Wikileaks—and curiously, around the same

time Trump called for the Russians to get Hillary Clinton's missing emails—I was contacted out the blue by a man named Peter Smith, who had seen my work going through these emails. Smith implied that he was a well-connected Republican political operative.

[snip]

Smith had not contacted me about the DNC hack, but rather about his conviction that Clinton's private email server had been hacked—in his view almost certainly both by the Russian government and likely by multiple other hackers too—and his desire to ensure that the fruits of those hacks were exposed prior to the election. Over the course of a long phone call, he mentioned that he had been contacted by someone on the "Dark Web" who claimed to have a copy of emails from Secretary Clinton's private server, and this was why he had contacted me; he wanted me to help validate whether or not the emails were genuine.

When Smith couldn't validate the emails he had received, he had the hackers themselves forward them to WikiLeaks.

Mr. Smith said after vetting batches of emails offered to him by hacker groups last fall, he couldn't be sure enough of their authenticity to leak them himself. "We told all the groups to give them to WikiLeaks," he said. WikiLeaks has never published those emails or claimed to have them.

All of which is to say that, if Stone was involved in this effort, he may have known emails pertaining to Libya (perhaps forgeries written to fit into the known, officially released ones) had gotten forwarded to WikiLeaks

as early as August. In which case his nudge to Credico the next month may have been an effort to flush out the emails he believed to be in WikiLeaks' possession.

Which would mean his response to Congress – that Stone was just looking for confirmation WikiLeaks had materials he thought they did – would be technically accurate.

There's one other detail of interest in the WSJ story. Credico, like Stone, has not been interviewed by Mueller's team. And like Stone, absent a direct interview, Credico appears to be trying to make his case in the public sphere.

Messrs. Stone and Credico said they haven't been contacted by Mr. Mueller's office, which declined to comment.

[snip]

After earlier asserting his Fifth Amendment right against self-incrimination in the House probe, Mr. Credico now says he is willing to talk with investigators. He said he met on Wednesday with the committee's Democratic staff members for what he called a limited conversation about WikiLeaks, the 2016 campaign and Mr. Stone.

As Mr. Credico has become more vocal about what he says are discrepancies in Mr. Stone's account, Mr. Stone has responded with a series of threats, according to emails and text messages reviewed by the Journal.

In early April, in one of those emails, Mr. Stone accused Mr. Credico of serving as an informant.

"Everyone says u are wearing a wire for Mueller," the April 7 email said. Two days later, Mr. Stone wrote: "Run your mouth = get sued." Mr. Credico denies being an informant.

It's possible that Stone was using Credico as a go-between to try to confirm what he already knew, to pressure WikiLeaks to release documents he and his rat-fucking associates had planted there.

Which might make the withheld emails far more newsworthy.

Update: Because there was some confusion, I've added more of the Don Jr transcript to make the context clear.