

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA

v.

PAUL J. MANAFORT, JR.,

Defendant.

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) Criminal No. 1:18-cr-00083-TSE
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) Judge T. S. Ellis, III
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**DEFENDANT PAUL J. MANAFORT JR.’S REPLY TO THE OFFICE OF SPECIAL
COUNSEL’S OPPOSITION TO THE MOTION TO REQUIRE A HEARING
REGARDING IMPROPER DISCLOSURES RELATING TO CONFIDENTIAL GRAND
JURY INFORMATION AND POTENTIALLY CLASSIFIED MATERIALS**

Defendant Paul J. Manafort, Jr., by and through counsel, files this reply to the opposition memorandum submitted by the Office of Special Counsel (Dkt. # 61) to his motion to require a hearing regarding improper disclosures relating to confidential grand jury information and potentially classified materials. The Special Counsel may view the requested hearing as a risk to “derail[] this case on satellite issues” (Dkt. # 61 at 16), but the defendant most certainly does not view unauthorized and intentional government leaks of confidential and classified information in violation of federal law and his Fifth and Sixth Amendment rights as “satellite issues.”

The Special Counsel focuses his attention on violations of Federal Rule of Criminal Procedure 6(e) and all but ignores that certain press reports by *The New York Times* and CNN cite to current and former government officials as sources for classified information included in the articles. Not only is leaking classified information a felony, but it was also apparently intended to

create the false public narrative that Mr. Manafort was colluding with Russian intelligence officials during the Trump presidential campaign. This smear campaign may have in fact irreparably prejudiced the jury pool in violation of the defendant's Constitutional rights.

Moreover, the Special Counsel so narrowly construes *United States v. Rosen*, 471 F. Supp.2d 651 (E.D. Va. 2007), as to suggest that if the media accounts disclose confidential grand jury information provided by government sources, but such reports do not specifically mention "the grand jury," then the defendant cannot have made the *prima facie* showing necessary for a hearing with respect to those Rule 6(e) violations.¹ But the Special Counsel has entirely ignored the factual context and unusual circumstances under which the Special Counsel took over the prior investigation(s) of the defendant. In essence, the Special Counsel invites the Court to view this matter in a vacuum; however, more transparency—not less—is what is needed to get to the bottom of these violations in this highly unusual investigation and prosecution.² At a minimum, information should be provided to this Court with respect to the activities of the lead attorney for the Special Counsel in the government investigations related to Mr. Manafort prior to the appointment of Special Counsel, including the details of the lead attorney's communications with the Associated Press regarding ongoing grand jury investigations.

BACKGROUND

The Substantial Harm from the Government Leaks Is Obvious

In the memorandum in support of the defendant's instant motion (Dkt. # 44), a number of media accounts were specifically identified to demonstrate that the information reported in the press articles (1) came from government sources, and (2) that such information was subject to

¹ See Dkt. # 61 at 3-5.

² Regarding the issue of transparency, in its memorandum in opposition, the Office of Special Counsel continues to submit matters *ex parte* to keep them from the defendant, and no general explanation is proffered as to why the matter must be addressed *ex parte*. (See Dkt. # 61 at 3, n.1).

grand jury secrecy, was potentially classified intelligence information, or was simply false. (Dkt. # 44 at 3-7). Given the enormous amount of negative press coverage that the defendant has endured since the Special Counsel took over the prior investigations, it hardly seemed controversial to limit the review of such deleterious media accounts in his *own* court filings—especially where the threshold for making a *prima facie* showing for a hearing is not difficult.³ A simple Google search of “Mr. Manafort and Special Counsel” yields hundreds of articles almost uniformly negative to Mr. Manafort and often disclosing confidential and classified information. These articles routinely disclose the grand jury investigations of former Ukrainian President Yanukovich, Mr. Manafort and his political campaign activities in Ukraine, and purported counterintelligence surveillance of the defendant. Adding reams of newspaper cites to such repetitive reporting seemed unnecessary. Indeed, the extraordinary public reach of CNN, *The New York Times* and the Associated Press (among others) is more than sufficient to reasonably show the magnitude of harm to Mr. Manafort by these reports based on government leaks.

The Counterintelligence Leaks Investigation is Narrow in Scope

Recently, the House Permanent Select Committee on Intelligence released the results of its investigation into the FBI counterintelligence investigation of the Trump campaign which began in July 2016.⁴ The report confirms that Mr. Manafort was part of investigation from its early stages. The investigation was conducted by a small group at the FBI.⁵ Information collected during the investigation was only shared with a small group including officials from the Department of

³ “A *prima facie* case is one which has proceeded upon sufficient proof to that stage where it will support finding if evidence to the contrary is disregarded.” *United States v. Rosen*, 471 F. Supp.2d 651, 656 (E.D. Va. 2007) (internal quotations and citations omitted).

⁴ House Permanent Select Committee on Intelligence, Report on Russian Active Measures, March 22, 2018, at page 47, 114.

⁵ Andrew C. McCarthy, *The Strzok-Page Texts and the Origins of the Trump-Russia Investigation*, Nationalreview.com, May 14, 2018 (Exhibit 1).

Justice, White House, State Department and CIA.⁶ Recent reporting puts the number of DOJ officials briefed at “a hand full” according to government officials.⁷ Despite protestations from the Office of Special Counsel, it appears that an investigation into government leaks surrounding the counterintelligence investigation of the Trump campaign—as it pertains to Mr. Manafort—would involve a small number of current and former government officials.

The Grand Jury Leaks Investigation Is Narrow in Scope

The focus on grand jury leaks is likewise limited, primarily concerning communications between the Special Counsel’s lead attorney and four reporters from the Associated Press. It appears that this investigation would involve approximately nine DOJ employees, including attorneys and FBI agents. The primary basis for having this inquiry comes from the questions raised by the House Permanent Select Committee on Intelligence, and the reporting of freelance journalist, Sara Carter.

On January 5, 2018, freelance journalist Sara Carter reported that:

- The senior attorney for Special Counsel Robert Mueller, described as his righthand man, has a significant role in the investigation which appears to be expanding from its original edict to investigate alleged collusion between members of the Trump campaign with Russia, to a broader financial investigation of Trump, members of his family and campaign officials.

Sara Carter, *Mueller’s “Pit Bull” Andrew Weissmann under scrutiny as Rosenstein agrees to turn over documents to Nunes*, saraacarter.com, Jan. 5, 2018 (Exhibit 3); Letter from D. Nunes to R. Rosenstein, dated January 4, 2018 (Exhibit 4).

⁶ *Id.*

⁷ Matt Apuzzo, Adam Goldman and Nicholas Fandos, *Code Name Crossfire Hurricane: The Secret Origins of the Trump Investigation*, The New York Times, May 16, 2018 (Exhibit 2).

On January 21, 2018, freelance journalist Sara Carter reported that:

- A senior Justice Department prosecutor in Robert Mueller's Special Counsel Office held a meeting with Associated Press⁸ (AP) journalists last spring to discuss an investigation into Paul Manafort's financial records, a day before the wire service published a major exposé disclosing alleged money laundering made by the former and now embattled Trump campaign chairman.

⁸ Associated Press articles that were published in the spring of 2017 were previously identified in the defendant's memorandum in support of the instant motion (Dkt. # 44 at 4-6):

On March 22, 2017, the Associated Press reported that:

- People familiar with the relationship between Paul Manafort and Russian oligarch Oleg Deripaska said money transfers to Mr. Manafort amounted to tens of millions of dollars and continued through 2009. They spoke on the condition of anonymity because they were not authorized to discuss secret payments publicly.
- Paul Manafort had been a leading focus of the U.S. intelligence investigation of Trump's associates and Russia, according to a U.S. official. The person spoke on the condition of anonymity because details of the investigation are confidential. Meanwhile, federal criminal prosecutors became interested in Manafort's activities years ago as part of a broad investigation to recover stolen Ukrainian assets. Jeff Horwitz & Chad Day, *Before Trump Job Manafort Worked to Aid Putin*, Associated Press, Mar. 22, 2017.

On March 23, 2017, the Associated Press reported that:

- Treasury agents in recent months obtained information connected to Paul Manafort's transactions from Cypriot authorities according to a person familiar with the matter who was not authorized to speak publicly.
- The time period covered under the request for Mr. Manafort's transactions from the Treasury Department's Financial Crimes Enforcement Network was not immediately clear. Jack Gillum, Menelaos Hadjicostis & Eric Tucker, *US Probe of Ex-Trump Aide Extends To Cyprus*, Associated Press, Mar. 23, 2017.

On April 12, 2017, the Associated Press reported that:

- Now, financial records newly obtained by the AP confirm that Paul Manafort's firm received at least some money listed in the so called "black ledger."
- Federal prosecutors in the U.S. have been investigating Mr. Manafort's work in Eastern Europe as part of a larger anti-corruption probe. Jack Gillum, Chad Day and Jeff Horwitz, *Manafort Firm Received Ukraine Ledger Payout*, Associated Press, Apr. 12, 2017.

On June 3, 2017, the Associated Press reported that:

- The Special Counsel investigating possible ties between Trump's campaign and the Russian government has taken over a separate criminal probe involving former Trump campaign chairman Paul Manafort.
- The expansiveness of Mueller's investigation was described to the AP. No one familiar with the matter has been willing to discuss the scope of his investigation on the record because it is just getting underway and because revealing details could complicate its progress. Sadie Gurman, Eric Tucker, and Jeff Horwitz, *Special Counsel's Trump Investigation Includes Manafort Case*, Associated Press, Jun. 3, 2017.

- The meeting with the Associated Press was also attended by other employees and agents of the U.S. Department of Justice, U.S. Attorney's Office and FBI.
- The senior DOJ attorney's role in arranging the meeting did not go over well with FBI officials, who issued a complaint to the Justice Department suggesting that the attorney did not follow normal procedures for dealing with journalists.

Sara Carter, *Weissmann met with AP to discuss Manafort case before joining special counsel*, saraacarter.com, Jan. 21, 2018 (Exhibit 5).

Just recently, on May 16, 2018, *The Washington Times* confirmed that the chairman of the House Permanent Select Committee on Intelligence asked the Department of Justice for information on a meeting that a senior attorney with the Special Counsel's Office conducted with news reporters last year when he headed the Fraud Section on the Criminal Division.⁹

ARGUMENT

For months, Mr. Manafort has sought information from the Special Counsel regarding unauthorized leaks by government officials. Despite multiple discovery and *Brady* requests, the Special Counsel has not produced any materials in this regard. When finally compelled to ask for the Court's intervention and to require a hearing on these violations, the Special Counsel's Office responds that "Manafort's speculative claim of improper conduct fall far short" of what is necessary to warrant a hearing on potential violations of Rule 6(e) or his Constitutional rights. (Dkt. # 61 at 2).

As an initial matter, the Special Counsel's resistance to finding out who has been responsible for these unauthorized and unlawful government leaks was perplexing. As a general proposition, prosecutors are interested in investigating potential wrongdoing. However, the

⁹ Rowan Scarborough, *Mueller moves to muscle out Manafort's lawyers from grilling prosecutors*, The Washington Times, May 16, 2018. (Exhibit 6)

Special Counsel's memorandum in opposition contained a footnote that may explain the reluctance. (Dkt. # 16 at 16, n.12). Apparently, the Special Counsel's Office is concerned that prosecutors on the trial team could be called to provide testimony. *Id.* Based upon the congressional inquiry and reporting noted above that concern may well be justified, but that decision is for the Court to make, not the defendant.

Government Leaks Regarding Grand Jury Investigations of Mr. Manafort

A *prima facie* case is a case in which sufficient proof has been presented where it will support the finding if evidence to the contrary is disregarded. *Rosen*, 471 F. Supp.2d at 656. Far from being "speculative," the media reports identified in the motion and this reply clearly demonstrate that unauthorized disclosures of Rule 6(e) information and potentially classified materials have occurred. Indeed, it is hard to fathom how the Special Counsel contends Mr. Manafort's claim is speculative when the chairman of the House Permanent Select Committee on Intelligence has asked the Department of Justice for information on the meeting that the lead prosecutor in this case conducted with news reporters last year. How can it be that the legislative branch, in exercising its oversight responsibilities regarding the Russian collusion investigation, has demanded (and is to receive) this relevant information, and the Court and the defendant in this criminal prosecution cannot?

As noted *supra*, it has been reported that a complaint was made to the Justice Department by the FBI with respect to the meeting with the AP reporters, which suggests that normal procedures were not followed in this case.¹⁰ (*See* Exhibit 5). The thrust of this motion requests

¹⁰ Again, the Special Counsel attempts to preempt any inquiry into this matter. (Dkt. # 61 at 16, n.12). As a *general* principle, the defense would agree that the taking of testimony of any lawyer who is trying a case should ordinarily be avoided. But this is by no means an ordinary case. Indeed, it is troubling that in discussing the AP stories, the Special Counsel first points out that the disclosed information must come from a person subject to Rule 6(e) secrecy, for which there is no argument from the defendant, but then attempts to convince the Court that "when [the AP stories] do refer to information provided by individuals, the context strongly suggests that those individuals are persons outside of the U.S. government. . . ." (*Id.* at 12-13). This suggestion is made without any mention or disclosure that the

that the Court hold a hearing on these unauthorized government leaks, and if there has been an internal investigation (or investigations) regarding such leaks, or if emails, notes or memoranda exist regarding the same, the Court and the defendant—whose Constitutional rights are actually at issue—are entitled to review the same. The Special Counsel may view the requested hearing as a risk to “derail this case on satellite issues” (Dkt. # 61 at 16), but the defendant most certainly does not view unauthorized and intentional violations of Rule 6(e) and his Fifth and Sixth Amendment rights as “satellite issues.”

Sensing the weakness in his argument, the Special Counsel seeks to narrowly construe the Court’s decision in *Rosen* to avoid having a hearing on the unauthorized Rule 6(e) disclosures.¹¹ In *Rosen*, however, the Court was dealing with an Espionage Act prosecution that involved national defense information. *Rosen*, 471 F. Supp. 2d at 652. The Court explained that law enforcement investigations and grand jury investigations differ and there was nothing in the media articles cited by the defendants that related to a “matter occurring before the grand jury.” *Id.* at 654-56. Given the sensitivity of the national defense information involved in *Rosen*, it is reasonable to infer that classified information may not have been presented *in toto* to the grand jury and, without more, the defendants were not able to meet their burden. It is also clear from the Court’s analysis that if there were evidence that (a) a grand jury was empaneled and (b) matters occurring before that grand jury were disclosed by government sources to the media, then a *prima facie* showing would have been made.

In this highly unusual case, where a Special Counsel was appointed and thereafter wandered far from his core mandate to investigate Russian collusion in the 2016 presidential

subject meeting with the AP reporters by the lead attorney in this case (and other government attorneys and FBI agents) is under scrutiny by the House Permanent Select Committee on Intelligence.

¹¹ The Special Counsel ignores the potential leaks of classified material and false information, which the defendant also contends requires exploration in a hearing.

election, the facts are quite different. Based on their own admission during the May 4 motions hearing, the Special Counsel's Office took over investigations regarding the defendant that antedated by years the Special Counsel's appointment. (*See* Transcript of Motions Before the Honorable T.S. Ellis, III, dated May 4, 2018, at p. 4). Based upon information provided by Special Counsel, it appears that there have been two grand jury investigations and, as such, any matters occurring before those grand juries were protected under Rule 6(e).

Indeed, in a recent filing, the Special Counsel acknowledges the existence of one of the grand jury investigations. (Dkt. # 66). To oppose the defendant's motion to dismiss Count Eleven of the Superseding Indictment (*see* Dkt. ## 41 and 42), the Special Counsel advises that his Office sought and obtained an *ex parte* order¹² in June 2017 suspending the running of the statute of limitations. (Dkt. # 66 at 2-3). To secure such a tolling order, however, the Special Counsel was required by statute to apply to the court where *the grand jury* was investigating the offense. 18 U.S.C. Section 3292(a)(1). There is no question that the Special Counsel obtained financial information based upon the investigative powers of the grand jury.

Importantly, for purposes of the case at bar, violations of Rule 6(e) concern "matters occurring before the grand jury" that, among other things, disclose or "reveal the strategy or direction of a grand jury investigation, or report when the grand jury will return an indictment." *Rosen*, 471 F. Supp.2d at 655 (citations omitted). The articles referenced in the subject motion and this reply clearly implicate Rule 6(e).

Government Leaks Regarding the Counterintelligence Investigation

¹² The Special Counsel only recently produced this order to the defense after the filing of the response to the motion to dismiss Count Eleven (Dkt. # 66 at 4), and the issue will be addressed in the defendant's reply to that memorandum in opposition.

The Special Counsel has avoided addressing the counterintelligence leaks to *The New York Times* and CNN regarding the surveillance of Mr. Manafort. There is strong evidence that the highest-level FBI and intelligence officials authorized leaks to the press and, in fact, leaked themselves. The identified officials include former FBI Director James Comey, and former FBI Deputy Director Andrew McCabe.¹³ Recently, it has also been confirmed that James Clapper, then the Director of National Intelligence, leaked details of what is known as the “Steele dossier” to CNN in January 2017.¹⁴ The Steele dossier was relied on by DOJ in applying for FISA surveillance of individuals associated with the Trump campaign. James Comey has confirmed that the information in the dossier could not be confirmed. The public has only recently learned that the dossier was part of political opposition to Trump that was compiled and paid for by the Hillary Clinton campaign for president.

The Special Counsel’s assertion of national security and classified information concerns to withhold information from the defendant and this court strains credulity. The highest-level counterintelligence officials at the FBI and National Intelligence Agency leaked the very same information to the press when it served their purposes to disclose details of counterintelligence investigations and the results of the investigations.

Just last week, government officials leaked more classified information about the FBI counterintelligence investigation of the Trump campaign to *The New York Times*.¹⁵ The leakers confirmed that only a small group was privy to information about the investigation.¹⁶ Therefore,

¹³ Jonathan Turley, *McCabe just made life tough for Comey and the special counsel*, TheHill.com, March 17, 2018 (Exhibit 7).

¹⁴ Sean Davis, *Declassified Congressional Report: James Clapper Lied About Dossier Leaks to CNN*, thefederalist.com, April 27, 2018 (Exhibit 8).

¹⁵ Matt Apuzzo, Adam Goldman and Nicholas Fandos, *Code Name Crossfire Hurricane: The Secret Origins of the Trump Investigation*, The New York Times, May 16, 2018 (Exhibit 2).

¹⁶ Andrew C. McCarthy, *The Strzok-Page Texts and the Origins of the Trump-Russia Investigation*, Nationalreview.com, May 14, 2018 (Exhibit 1).

a leaks investigation in this regard would be limited in scope and manageable. The House Intelligence Committee's report also disclosed documents that contain the redacted names of individuals at the White House, State Department, DOJ and CIA who were privy to this information. Therefore, the individuals that would be the focus of a leaks investigation are readily identifiable.

Moreover, *The New York Times* and CNN articles cited in defendant's motion clearly identify government officials as the source of counterintelligence information, including the details of the investigation and the surveillance of Mr. Manafort. If the media reports of these leaks of classified information are accurate, they constitute felonies. And if the leaks were/are false, they constitute an inexcusable public smear campaign.¹⁷ Either way, the leaks constitute outrageous government conduct intended to deprive Mr. Manafort of his Fifth and Sixth Amendment Constitutional rights to due process and a trial by an unbiased jury of his peers. In light of the mass media coverage of these leaks in print, on television, radio and the internet, it seems unlikely that there is a jury questionnaire, instruction or change of venue that could cure the irreparable harm to Mr. Manafort's Constitutional rights resulting from leaks by the highest-level government officials.

WHEREFORE, Defendant Manafort respectfully requests a hearing with respect to the government's unauthorized leaks in this case and any other such relief needed to allow Mr. Manafort an opportunity to seek legal redress for all violations of his Constitutional rights.

¹⁷ See, e.g., Martin London, *Spiro Agnew's Lawyer: How the Russia Leaks Could Backfire in Court*, Time.com, June 7, 2017 (Exhibit 9).

Dated: May 21, 2018

Respectfully submitted,

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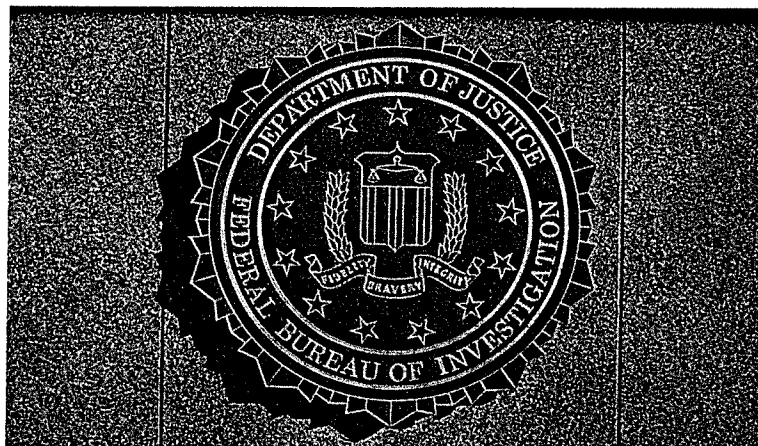
Counsel for Defendant Paul J. Manafort, Jr.

Exhibit 1

WHITE HOUSE

The Strzok-Page Texts and the Origins of the Trump-Russia Investigation

By ANDREW C. MCCARTHY | May 14, 2018 5:10 PM



The J. Edgar Hoover Federal Bureau of Investigation Building in Washington, D.C. (Aaron P. Bernstein/Reuters)

Peter Strzok and Lisa Page's texts shine a highly redacted light on how the Trump-Russia investigation began

begun.

It was July 31, 2016. Just days earlier, the Obama administration had quietly opened an FBI counterintelligence investigation of Russian cyber-espionage — hacking attacks — to disrupt the 2016 election. And not random, general disruption; the operating theory was that the Russians were targeting the Democratic party, for the purpose of helping Donald Trump win the presidency.

FBI special agent Peter Strzok was downright giddy that day.

The Bureau had finally put to bed “Mid Year Exam.” MYE was code for the dreaded investigation of Hillary Clinton’s improper use of a private email system to conduct State Department business, which resulted in the retention and transmission of thousands of classified emails, as well as the destruction of tens of thousands of government business records. Strzok and other FBI vets dreaded the case because it was a go-through-the-motions exercise: Everyone working on it knew that no one was going to be charged with a crime; that

was going to be charged with a crime, that Mrs. Clinton was going to be the next president of the United States; and that the

FBI's goal was not to be tarnished in the process of "investigating" her — to demonstrate, without calling attention to the suffocating constraints imposed by the Obama Justice Department, that the Bureau had done a thorough job, and that there was a legal rationale for letting Clinton off the hook that might pass the laugh test.

That mission was accomplished, Strzok and his colleagues believed, with Director James

Comey's press conference on July 5,
outlining the evidence and recommending

against charges that "no reasonable
prosecutor" would bring. Now, having run
the just-for-show interview of Hillary
Clinton on July 2 — long after Comey's press
statement that there would be no charges
was in the can — Strzok was on the verge of
a big promotion: to deputy assistant director
of counterintelligence.

Even better: Now, he was working a *real*
case — the Trump-Russia case. He was
about to fly to London to meet with
intelligence contacts and conduct secret
interviews.

Not so secret, though, that he could contain
himself.

As was his wont several times a day, Strzok
texted his paramour, Lisa Page, the FBI
lawyer in the lofty position of counsel to
Deputy Director Andrew McCabe — which
made Page one of the relative handful of
Bureau officials who were in on the new
probe. Late Sunday night, as he readied for
his morning flight, Strzok wrote to Page,
comparing the investigations of Clinton and

Trump.

And damn this feels momentous.
Because this matters. The other
one did, too, but that was to
ensure that we didn't F
something up. This matters
because this MATTERS.

This MATTERS.

The Strzok-Page Texts: An Invaluable Narrative

As my weekend column detailed, the House Intelligence Committee is spearheading a congressional effort to pry disclosure from the Justice Department regarding how and why the so-called Russia investigation was opened. With Justice and anonymous intelligence-community leakers having provided conflicting explanations, the latest controversy involves the role played by a CIA and FBI informant, based in Britain, who appears to have been deployed against marginal Trump-campaign figures (such as George Papadopoulos). Several bloggers began reporting the likely identity of this source over the weekend; I am going to follow the lead of the *Wall Street Journal's* Kim Strassel and resist mentioning the name — I am not in the news-breaker business, and it is likely to be confirmed

soon enough.

I want to make a different point.

House Intelligence Committee chairman Devin Nunes is pressing for limited disclosure of information from the government's closely held files. He is right to do so. No government operations can be completely beyond the examination of the people's representatives in our constitutional republic. Here, the Obama administration took extraordinary measures to withhold information from Congress about its Trump-Russia probe — such as not briefing the bipartisan leaders of the both chambers and their intelligence committees, the “Gang of Eight.” (See transcript of Director Comey's Testimony, March 20, 2017, questioning by Representative Elise Stefanik (R., N.Y.), House Intelligence Committee.) Besides, having litigated classified-information issues under procedures prescribed by federal law, I am confident that there are ways to get essential information disclosed without compromising intelligence methods and sources.

But all that aside, it may not be necessary to pry into informant files in order to find

answers to the most pressing questions.

Those answers may be found in the

thousands of Strzok-Page texts. These provide a day-to-day narrative of the goings-on in the Clinton-emails and Trump-Russia investigations by two of the highest, most plugged-in officials in the government.

This fact has eluded us for months, ever since the existence of the texts was first made known. Yes, a few explosive messages have captured our attention, most notably, Strzok's "insurance policy" assertion: An account of an August 15 discussion among top FBI officials in then-deputy director Andrew McCabe's office, with Strzok observing that although it was highly unlikely "Trump gets elected," the government "can't take that risk" and needed an "insurance policy" against a Trump presidency. But for the most part, the texts have been dismissed as the ravings of star-crossed lovers whose loathing of Trump and disdain for Trump supporters should not be thought to reflect on the Bureau's legions of hard-working non-partisans.

That's the wrong way to look at it.

Strzok and Page are singularly well-informed, central players in the Clinton and Trump investigations. They tell us exactly what is going on and why — or at least they would if the Justice Department had not blacked out key parts of their running conversation.

Thanks mostly to the dogged work of Senator Ron Johnson (R., Wis.), who chairs the Senate Homeland Security and Governmental Affairs Committee, hundreds of pages of the Strzok-Page texts have been released publicly — trust me on that: I am bleary-eyed from a weekend of reading about half of them. Even in their heavily redacted form, they are a goldmine of insight.

But why are they so heavily redacted? The Justice Department and FBI have blocked out passages — sometimes, several exchanges at a time — that would provide context for the key decisions and actions taken by government officials. And while the names of high-ranking FBI officials who figure constantly in the texts have, for the most part, been revealed, the names of Justice Department, White House, intelligence, and other government officials

have been withheld.

Late July 2016

Let me give you a small window into what we're dealing with, homing in on what Nunes has been inquiring about, the start of the Trump-Russia counterintelligence investigation. (Senator Johnson has posted the texts [here](#). The massive document, covering a couple of years, takes a few seconds to load. I will be addressing the texts beginning on what is paginated DOJ-PROD-0000199; we'll cover just the eight days from July 28 through August 5, 2016.)

We now know that the investigation began in late July 2016, apparently driven by this concatenation: the hacking of Democratic email accounts; the first reports from the Clinton campaign-sponsored opposition-research compilation that became known as the Steele dossier; and information that a low-level Trump campaign adviser, Papadopoulos, had heard the Russians had thousands of Hillary Clinton's emails. The Strzok-Page texts of this period are eye-opening, combining alarm over the Putin regime's suspected hand in the hacking and scrutiny of media stories about Trump ties to Russia.

In the wee hours of Thursday morning, July 28, while they separately watched the Democratic National Convention — cooing over Vice President Joe Biden (“he’s just a really sincere guy”) and grouching over “stupid *ss Bernie supporters” — Strzok and Page perused a Josh Marshall *Talking Points Memo* post entitled, “Trump & Putin. Yes, It’s really a Thing.”

It’s an interesting article. Marshall observed that Donald Trump was deeply dependent on Russian financing. In just the last year, his debt load had increased by \$280 million (to a staggering \$630 million); he’d had trouble finding financing because of prior bankruptcies; and thus he’d relied heavily on Russian capital to rebuild his business. “Russians make up a pretty disproportionate cross-section of a lot of our assets,” Trump’s son Donald Jr. had told a real-estate conference in 2008.

Marshall pointed out that shady Russian oligarchs were involved in Trump development ventures; that Trump’s tax returns might reveal the depth of financial ties to Moscow, but Trump had refused to disclose them; that Trump had chosen to

bring into his campaign Paul Manafort, who had had worked for years for a Kremlin-backed Ukrainian party, and Carter Page, a Putin apologist with financial ties to Gazprom, the Kremlin-controlled energy behemoth; that Putin had “aligned all Russian state controlled media behind Trump”; and that the Trump campaign, though otherwise indifferent to the party platform during the Republican convention, had intervened to water down a provision on providing assistance to Ukraine against Russian aggression. (That last claim has been persuasively rebutted, by Byron York, among others.)

Just as Page urges this column on Strzok, there is a redacted passage. Minutes later, after Strzok has read it, there is another redacted message. Then, Strzok says, “This article highlights the thing I mentioned to you earlier, asking if Bill had noted it to the 7th floor. I’m going to send it to him.”

“Bill” is Bill Priestap, at the time the assistant director of the Counterintelligence Division, one of the Bureau’s highest-ranking officials. It was Priestap’s division, in which Strzok was about to become his deputy, that would run the newly opened

Trump-Russia case file. Minutes later, over a period of 50 minutes, Strzok and Page exchange 13 texts, some of them apparently lengthy. All of them have been blacked out by the Justice Department.

Later that day, while they're in the office at around 5 P.M., Strzok texts Page: "Hey if you discussed the new case with Andy would appreciate any input/guidance before we talk to Bill at 3." "Andy," of course, is Andrew McCabe, then the FBI's No. 2 official. Strzok wanted to know what McCabe was thinking before making a plan with Priestap.

After 8 P.M., Strzok tells Page about what appears to be Justice Department officials who will be involved in the Trump-Russia investigation. Again, though, the Justice Department has redacted most of these names — other than an apparent reference to Trisha Anderson, then of the Justice Department's Office of Legal Counsel. (Ms. Anderson is married to Charles Newman, then a lawyer in the Obama White House for the National Security Council). Strzok texts, "Trisha mentioned to [REDACTED] to put [REDACTED] on this new case for seniority until she comes back from al" ("al" is

“annual leave” — vacation time in government-speak).

Strzok’s Sudden Trip to London

By that weekend, as a result of consultations within these government agencies, Strzok was headed to London. While preparing, he teased Page that he’s “partial to any woman sending articles about how nasty the Russians are” — the rest of his text is redacted. After Page’s heavily redacted reply about how the Russians “are probably the worst. Very little I finding redeeming about this. Even in history. Couple of good writers and artists I guess,” Strzok raged in a heavily redacted reply, “f***ing conniving cheating savages. At statecraft, athletics, you name it. I’m glad I’m on Team USA.”

After yet more redacting, Strzok got back to the new case. He’d been “talking with [REDACTED], who’s been great. Going back through acting DCM. All good, and asked him to keep quiet, [there follows some odd coding — ‘bu+H3382t’] I think he will inform main State and they may call over to see what’s going on.” Clearly, Strzok was in communication with a counterpart at the Obama State Department — which, we now

know, was ultimately in communication with the Bureau about both the Steele dossier and reporting from Clinton

confederates Sidney Blumenthal and Corey Shearer.

Page related that she would not be sent on the trip to Britain because McCabe trusts Strzok and the (unidentified) agent who was accompanying him. It is then that Strzok, as noted above, exclaimed how “momentous” this new investigation — the one that “MATTERS” — feels to him. Interestingly though, right before this exclamation, Strzok has something else to say, apparently about the launch of the Trump-Russia probe, but . . . the Justice Department has redacted it.

By Monday afternoon (Eastern Time — evening in the U.K.), Strzok had arrived in London. He texted Page to ask if McCabe had been able to speak with [REDACTED] yet; Page said McCabe had been not reach “him” yet, but would keep trying. Meantime, Page asserted, “Ho boy. Don’t tell Moffa, but andy is cancelling their brief. And he wants it first.”

Moffa is Jonathan Moffa, an intelligence agent who worked closely with Strzok and

Page on the Clinton-emails investigation.

Page's news prompted Strzok to answer, "I think that's smart. Bill may need a little

Page, the lawyer, then counseled Strzok to be careful of what he signs in England so that he can "lawfully protect" the information — meaning, *conceal it*.

saving from himself."

Plainly, the FBI's deputy director wanted to receive the first briefing on Strzok's meetings in Britain, even though the normal chain of command called for Priestap to be briefed first by his direct subordinates.

By noon (Eastern Time) on Tuesday, August 2, Strzok had had his first meeting. Page asked whether it went well, but the Justice Department has deleted Strzok's

response — all we get is his next text, "With the [REDACTED], yes, good meeting." Most of Page's response is deleted, except for "Whoa."

Page, the lawyer, then counseled Strzok to

be careful of what he signs in England so that he can “lawfully protect” the information — meaning, *conceal it*. As she put it, “Just thinking about Congress, foia [the Freedom of Information Act], etc.” Strzok replied that he had just sent a document to Page by FBI net email; she instructed him to forward it to two people: “[REDACTED] and Trisha too” (another apparent reference to the Justice Department’s Trisha Anderson). Page elaborated that Trisha “is acting Jim” — which seems to mean she was acting temporarily in the stead of James Baker, then the Bureau’s general counsel.

About two hours later, Strzok was pleading with Page to get into the office to prevent “ogc” (the Bureau’s Office of General Counsel) from making “not legally necessary” changes to the document — he was worried that delay to deal with nitpicking edits “will derail this thing” that he was in Britain to do. Page replied that she was already in the office.

While she was reviewing the document, Strzok decided to tell her some background: “Interesting fact. Guy we’re about to interview was —” But we learn nothing more

about who Strzok was about to interview because the Justice Department has redacted it.

Page proceeds to relate that she had been questioned sharply by an official whose identity is redacted, in the nature of “what are you doing on this case” that is such a closely held secret. But she elaborates that David Laufman, a Justice Department counterintelligence lawyer (who was very involved in the Clinton-emails probe) leapt to her defense.

By the early morning hours (Eastern Time) of August 3, Strzok prepared to head home, having conducted multiple interviews the previous afternoon. As he thanked Page and, derivatively, McCabe, for waiting until he returned to hold a formal meeting with the Justice Department regarding the new case, Page observed, “Jesus. There’s a lot to read here. Let me call [REDACTED] check in with andy, and I will call you.” Later, as it came time to leave for the airport, Strzok agreed emphatically with Page’s stress on “New case. Information flow. Control.” We learn, despite more redactions, that Strzok planned to tell Priestap anything he wanted to know, but would “reinforce” the need to control the information flow when he

briefed Page, Priestap and McCabe.”

‘The White House Is Running This’

Strzok was back in Washington by 7 P.M., in a cab headed to FBI headquarters. His texts with Page, then and the next afternoon, discussed the various other high-ranking officials who had to be briefed — including Bill Rybicki, chief of staff to Director Comey, and George Toscas, the deputy attorney general in charge of the Justice Department’s National Security Division.

On the afternoon of August 5, Strzok and Page engaged in a tense conversation which involved an imminent meeting with “agency people — an apparent reference to the CIA. Strzok suggested that, for the new case, they should conduct Monday, Wednesday, and Friday morning meetings “with [REDACTED]” just “like we did with mye” — Mid Year Exam, the Clinton probe.

Finally, after some back-and-forth over who should be invited to a major meeting about the new case, a meeting was held. In the aftermath, at about 4:30 P.M., Strzok and Page had the following exchange:

STRZOK: And hi. Went well, best we could have expected. Other than

could have expected. Other than [REDACTED] quote: “the White House is running this.” My answer, “well, maybe for you they are.” And of course, I was planning on telling this guy, thanks for coming, we’ve got an hour, but with Bill [Rybicki, Director Comey’s chief of staff] there, I’ve got no control....

PAGE: Yeah, whatever (re the WH comment). We’ve got the emails that say otherwise.

It would be interesting to know what is in the emails that apparently clarify how the Obama administration divided responsibility for running the Trump-Russia investigation. Just like it would be interesting to know what is behind all the many redactions in these texts about how and why the Trump-Russia investigation got started.

On what basis has the Justice Department concealed passages and references to government officials from these significant conversations? Are Justice and the Bureau claiming that the redactions are necessary because the information is classified — even though we’re talking about communications

between highly trained intelligence officials?

And if that is the claim, are they telling us

that Hillary Clinton was
investigated — and given a pass —
for the unauthorized
transmission of classified
information by FBI officials who were
themselves actively engaged in the
unauthorized transmission of classified
information?

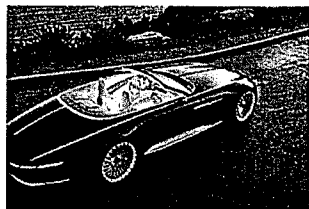
The Strzok-Page texts rate a lot more
attention, and a lot more transparency.



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Exhibit 2

POLITICS

The New York Times

Code Name Crossfire Hurricane: The Secret Origins of the Trump Investigation

By Matt Apuzzo, Adam Goldman and Nicholas Fandos

May 16, 2018

WASHINGTON — Within hours of opening an investigation into the Trump campaign’s ties to Russia in the summer of 2016, the F.B.I. dispatched a pair of agents to London on a mission so secretive that all but a handful of officials were kept in the dark.

Their assignment, which has not been previously reported, was to meet the Australian ambassador, who had evidence that one of Donald J. Trump’s advisers knew in advance about Russian election meddling. After tense deliberations between Washington and Canberra, top Australian officials broke with diplomatic protocol and allowed the ambassador, Alexander Downer, to sit for an F.B.I. interview to describe his meeting with the campaign adviser, George Papadopoulos.

The agents summarized their highly unusual interview and sent word to Washington on Aug. 2, 2016, two days after the investigation was opened. Their report helped provide the foundation for a case that, a year ago Thursday, became the special counsel investigation. But at the time, a small group of F.B.I. officials knew it by its code name: Crossfire Hurricane.

The name, a reference to the Rolling Stones lyric “I was born in a crossfire hurricane,” was an apt prediction of a political storm that continues to tear shingles off the bureau. Days after they closed their investigation into Hillary Clinton’s use of a private email server, agents began scrutinizing the campaign of her Republican rival. The two cases have become inextricably linked in one of the most consequential periods in the history of the F.B.I.

[Read our briefing on secret government code names]

This month, the Justice Department inspector general is expected to release the findings of its lengthy review of the F.B.I.'s conduct in the Clinton case. The results are certain to renew debate over decisions by the F.B.I. director at the time, James B. Comey, to publicly chastise Mrs. Clinton in a news conference, and then announce the reopening of the investigation days before Election Day. Mrs. Clinton has said those actions buried her presidential hopes.

Those decisions stand in contrast to the F.B.I.'s handling of Crossfire Hurricane. Not only did agents in that case fall back to their typical policy of silence, but interviews with a dozen current and former government officials and a review of documents show that the F.B.I. was even more circumspect in that case than has been previously known. Many of the officials spoke on condition of anonymity because they were not authorized to discuss the investigation publicly.

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Agents considered, then rejected, interviewing key Trump associates, which might have sped up the investigation but risked revealing the existence of the case. Top officials quickly became convinced that they would not solve the case before Election Day, which made them only more hesitant to act. When agents did take bold investigative steps, like interviewing the ambassador, they were shrouded in secrecy.

Fearful of leaks, they kept details from political appointees across the street at the Justice Department. Peter Strzok, a senior F.B.I. agent, explained in a text that Justice Department officials would find it too "tasty" to resist sharing. "I'm not worried about our side," he wrote.

Only about five Justice Department officials knew the full scope of the case, officials said, not the dozen or more who might normally be briefed on a major national security case.

The facts, had they surfaced, might have devastated the Trump campaign: Mr. Trump's future national security adviser was under investigation, as was his campaign chairman. One adviser appeared to have Russian intelligence contacts. Another was suspected of being a Russian agent himself.

In the Clinton case, Mr. Comey has said he erred on the side of transparency. But in the face of questions from Congress about the Trump campaign, the F.B.I. declined to tip its hand. And when The New York Times tried to assess the state of the investigation in October 2016, law enforcement officials cautioned against drawing any conclusions, resulting in a story that significantly played down the case.

Mr. Comey has said it is unfair to compare the Clinton case, which was winding down in the summer of 2016, with the Russia case, which was in its earliest stages. He said he did not make political considerations about who would benefit from each decision.

But underpinning both cases was one political calculation: that Mrs. Clinton would win and Mr. Trump would lose. Agents feared being seen as withholding information or going too easy on her. And they worried that any overt actions against Mr. Trump's campaign would only reinforce his claims that the election was being rigged against him.

The F.B.I. now faces those very criticisms and more. Mr. Trump says he is the victim of a politicized F.B.I. He says senior agents tried to rig the election by declining to prosecute Mrs. Clinton, then drummed up the Russia investigation to undermine his presidency. He has declared that a deeply rooted cabal — including his own appointees — is working against him.

That argument is the heart of Mr. Trump's grievances with the federal investigation. In the face of bipartisan support for the special counsel, Robert S. Mueller III, Mr. Trump and his allies have made a priority of questioning how the investigation was conducted in

late 2016 and trying to discredit it.

“It’s a witch hunt,” Mr. Trump said last month on Fox News. “And they know that, and I’ve been able to message it.”

Congressional Republicans, led by Representative Devin Nunes of California, have begun to dig into F.B.I. files, looking for evidence that could undermine the investigation. Much remains unknown and classified. But those who saw the investigation up close, and many of those who have reviewed case files in the past year, say that far from gunning for Mr. Trump, the F.B.I. could actually have done more in the final months of 2016 to scrutinize his campaign’s Russia ties.

“I never saw anything that resembled a witch hunt or suggested that the bureau’s approach to the investigation was politically driven,” said Mary McCord, a 20-year Justice Department veteran and the top national security prosecutor during much of the investigation’s first nine months.

Crossfire Hurricane spawned a case that has brought charges against former Trump campaign officials and more than a dozen Russians. But in the final months of 2016, agents faced great uncertainty — about the facts, and how to respond.

Crossfire Hurricane began exactly 100 days before the presidential election, but if agents were eager to investigate Mr. Trump's campaign, as the president has suggested, the messages do not reveal it. "I cannot believe we are seriously looking at these allegations and the pervasive connections," Mr. Strzok wrote soon after returning from London.

The mood in early meetings was anxious, former officials recalled. Agents had just closed the Clinton investigation, and they braced for months of Republican-led hearings over why she was not charged. Crossfire Hurricane was built around the same core of agents and analysts who had investigated Mrs. Clinton. None was eager to re-enter presidential politics, former officials said, especially when agents did not know what would come of the Australian information.

The question they confronted still persists: Was anyone in the Trump campaign tied to Russian efforts to undermine the election?

The F.B.I. investigated four unidentified Trump campaign aides in those early months, congressional investigators revealed in February. The four men were Michael T. Flynn, Paul Manafort, Carter Page and Mr. Papadopoulos, current and former officials said. Each was scrutinized because of his obvious or suspected Russian ties.

[Here are the key themes, dates and characters in the Russia investigation]

Mr. Flynn, a top adviser, was paid \$45,000 by the Russian government's media arm for a 2015 speech and dined at the arm of the Russian president, Vladimir V. Putin. Mr. Manafort, the campaign chairman, had lobbied for pro-Russia interests in Ukraine and worked with an associate who has been identified as having connections to Russian intelligence.

Mr. Page, a foreign policy adviser, was well known to the F.B.I. He had previously been recruited by Russian spies and was suspected of meeting one in Moscow during the campaign.

Lastly, there was Mr. Papadopoulos, the young and inexperienced campaign aide whose wine-fueled conversation with the Australian ambassador set off the investigation. Before hacked Democratic emails appeared online, he had seemed to know that Russia had political dirt on Mrs. Clinton. But even if the F.B.I. had wanted to read his emails or intercept his calls, that evidence was not enough to allow it. Many months passed, former officials said, before the F.B.I. uncovered emails linking Mr. Papadopoulos to a Russian intelligence operation.

Mr. Trump was not under investigation, but his actions perplexed the agents. Days after the stolen Democratic emails became public, he called on Russia to uncover more. Then news broke that Mr. Trump's campaign had pushed to change the Republican platform's stance on Ukraine in ways favorable to Russia.

The F.B.I.'s thinking crystallized by mid-August, after the C.I.A. director at the time, John O. Brennan, shared intelligence with Mr. Comey showing that the Russian government was behind an attack on the 2016 presidential election. Intelligence agencies began collaborating to investigate that operation. The Crossfire Hurricane team was part of that group but largely operated independently, three officials said.

Senator Marco Rubio, Republican of Florida, said that after studying the investigation as a member of the Senate Intelligence Committee, he saw no evidence of political motivation in the opening of the investigation.

"There was a growing body of evidence that a foreign government was attempting to interfere in both the process and the debate surrounding our elections, and their job is to investigate counterintelligence," he said in an interview. "That's what they did."

Andrew G. McCabe in December in Washington. Mr. McCabe, the former deputy F.B.I. director, was cited by internal investigators for dishonesty, giving ammunition for Mr. Trump's claims that the F.B.I. cannot be trusted. Chip Somodevilla/Getty Images

Abounding Criticism

Looking back, some inside the F.B.I. and the Justice Department say that Mr. Comey should have seen the political storm coming and better sheltered the bureau. They question why he consolidated the Clinton and Trump investigations at headquarters, rather than in a field office. And they say he should not have relied on the same team for both cases. That put a bull's-eye on the heart of the F.B.I. Any misstep in either investigation made both cases, and the entire bureau, vulnerable to criticism.

And there were missteps. Andrew G. McCabe, the former deputy F.B.I. director, was cited by internal investigators for dishonesty about his conversations with reporters about Mrs. Clinton. That gave ammunition for Mr. Trump's claims that the F.B.I. cannot be trusted. And Mr. Strzok and Lisa Page, an F.B.I. lawyer, exchanged texts criticizing Mr. Trump, allowing the president to point to evidence of bias when they became public.

The messages were unsparing. They questioned Mr. Trump's intelligence, believed he promoted intolerance and feared he would damage the bureau.

The inspector general's upcoming report is expected to criticize those messages for giving the appearance of bias. It is not clear, however, whether inspectors found evidence supporting Mr. Trump's assertion that agents tried to protect Mrs. Clinton, a claim the F.B.I. has adamantly denied.

Mr. Rubio, who has reviewed many of the texts and case files, said he saw no signs that the F.B.I. wanted to undermine Mr. Trump. "There might have been individual agents that had views that, in hindsight, have been problematic for those agents," Mr. Rubio said. "But whether that was a systemic effort, I've seen no evidence of it."

Mr. Trump's daily Twitter posts, though, offer sound-bite-sized accusations — witch hunt, hoax, deep state, rigged system — that fan the flames of conspiracy. Capitol Hill allies reliably echo those comments.

"It's like the deep state all got together to try to orchestrate a palace coup," Representative Matt Gaetz, Republican of Florida, said in January on Fox Business Network.

The Kremlin in Moscow. Two weeks before Mr. Trump's inauguration, senior American intelligence officials told him that Russia had tried to sow chaos in the election, undermine Mrs. Clinton and ultimately help Mr. Trump win. Mladen Antonov/Agence France-Presse — Getty Images

Cautious Intelligence Gathering

Counterintelligence investigations can take years, but if the Russian government had influence over the Trump campaign, the F.B.I. wanted to know quickly. One option was the most direct: interview the campaign officials about their Russian contacts.

That was discussed but not acted on, two former officials said, because interviewing witnesses or subpoenaing documents might thrust the investigation into public view, exactly what F.B.I. officials were trying to avoid during the heat of the presidential race.

“You do not take actions that will unnecessarily impact an election,” Sally Q. Yates, the former deputy attorney general, said in an interview. She would not discuss details, but added, “Folks were very careful to make sure that actions that were being taken in connection with that investigation did not become public.”

Mr. Comey was briefed regularly on the Russia investigation, but one official said those briefings focused mostly on hacking and election interference. The Crossfire Hurricane team did not present many crucial decisions for Mr. Comey to make.

Top officials became convinced that there was almost no chance they would answer the question of collusion before Election Day. And that made agents even more cautious.

The F.B.I. obtained phone records and other documents using national security letters — a secret type of subpoena — officials said. And at least one government informant met several times with Mr. Page and Mr. Papadopoulos, current and former officials said. That has become a politically contentious point, with Mr. Trump’s allies questioning whether the F.B.I. was spying on the Trump campaign or trying to entrap campaign officials.

Looking back, some at the Justice Department and the F.B.I. now believe that agents could have been more aggressive. They ultimately interviewed Mr. Papadopoulos in January 2017 and managed to keep it a secret, suggesting they could have done so much earlier.

“There is always a high degree of caution before taking overt steps in a counterintelligence investigation,” said Ms. McCord, who would not discuss details of the case. “And that could have worked to the president’s benefit here.”

Such tactical discussions are reflected in one of Mr. Strzok’s most controversial texts, sent on Aug. 15, 2016, after a meeting in Mr. McCabe’s office.

“I want to believe the path you threw out for consideration in Andy’s office — that there’s no way he gets elected,” Mr. Strzok wrote, “but I’m afraid we can’t take that risk. It’s like an insurance policy in the unlikely event you die before you’re 40.”

Mr. Trump says that message revealed a secret F.B.I. plan to respond to his election. “‘We’ll go to Phase 2 and we’ll get this guy out of office,’” he told The Wall Street Journal. “This is the F.B.I. we’re talking about — that is treason.”

But officials have told the inspector general something quite different. They said Ms. Page and others advocated a slower, circumspect pace, especially because polls predicted Mr. Trump’s defeat. They said that anything the F.B.I. did publicly would only give fodder to Mr. Trump’s claims on the campaign trail that the election was rigged.

Mr. Strzok countered that even if Mr. Trump’s chances of victory were low — like dying before 40 — the stakes were too high to justify inaction.

Mr. Strzok had similarly argued for a more aggressive path during the Clinton investigation, according to four current and former officials. He opposed the Justice Department’s decision to offer Mrs. Clinton’s lawyers immunity and negotiate access to her hard drives, the officials said. Mr. Strzok favored using search warrants or subpoenas instead.

In both cases, his argument lost.

As agents tried to corroborate information from the retired British spy Christopher Steele, reporters began calling the F.B.I., asking whether the accusations in his reports were accurate. Al Drago for The New York Times

Policy and Tradition

The F.B.I. bureaucracy did agents no favors. In July, a retired British spy named Christopher Steele approached a friend in the F.B.I. overseas and provided reports linking Trump campaign officials to Russia. But the documents meandered around the F.B.I. organizational chart, former officials said. Only in mid-September, congressional investigators say, did the records reach the Crossfire Hurricane team.

Mr. Steele was gathering information about Mr. Trump as a private investigator for Fusion GPS, a firm paid by Democrats. But he was also considered highly credible, having helped agents unravel complicated cases.

In October, agents flew to Europe to interview him. But Mr. Steele had become frustrated by the F.B.I.'s slow response. He began sharing his findings in September and October with journalists at The New York Times, The Washington Post, The New Yorker and elsewhere, according to congressional testimony.

So as agents tried to corroborate Mr. Steele's information, reporters began calling the bureau, asking about his findings. If the F.B.I. was working against Mr. Trump, as he asserts, this was an opportunity to push embarrassing information into the news media shortly before the election.

That did not happen. Most news organizations did not publish Mr. Steele's reports or reveal the F.B.I.'s interest in them until after Election Day.

Congress was also increasingly asking questions. Mr. Brennan, the C.I.A. director, had briefed top lawmakers that summer about Russian election interference and intelligence that Moscow supported the Trump campaign — a finding that would not become public for months. Lawmakers clamored for information from Mr. Comey, who refused to answer public questions.

Many Democrats see rueful irony in this moment. Mr. Comey, after all, broke with policy and twice publicly discussed the Clinton investigation. Yet he refused repeated requests to discuss the Trump investigation.

Mr. Comey has said he regrets his decision to chastise Mrs. Clinton as "extremely careless," even as he announced that she should not be charged. But he stands by his decision to alert Congress, days before the election, that the F.B.I. was reopening the Clinton inquiry.

The result, though, is that Mr. Comey broke with both policy and tradition in Mrs. Clinton's case, but hewed closely to the rules for Mr. Trump. Representative Adam B. Schiff of California, the top Democrat on the House Intelligence Committee, said that

alone proves Mr. Trump's claims of unfairness to be "both deeply at odds with the facts, and damaging to our democracy."

Carter Page in December 2016. He had previously been recruited by Russian spies and was suspected of meeting one in Moscow during the 2016 presidential campaign. Pavel Golovkin/Associated Press

Spying in Question

Crossfire Hurricane began with a focus on four campaign officials. But by mid-fall 2016, Mr. Page's inquiry had progressed the furthest. Agents had known Mr. Page for years. Russian spies tried to recruit him in 2013, and he was dismissive when agents warned him about it, a half-dozen current and former officials said. That warning even made its way back to Russian intelligence, leaving agents suspecting that Mr. Page had reported their efforts to Moscow.

Relying on F.B.I. information and Mr. Steele's, prosecutors obtained court approval to eavesdrop on Mr. Page, who was no longer with the Trump campaign.

That warrant has become deeply contentious and is crucial to Republican arguments that intelligence agencies improperly used Democratic research to help justify spying on the Trump campaign. The inspector general is reviewing that claim.

Ms. Yates, the deputy attorney general under President Barack Obama, signed the first warrant application. But subsequent filings were approved by members of Mr. Trump's own administration: the acting attorney general, Dana J. Boente, and then Rod J. Rosenstein, the deputy attorney general.

"Folks are very, very careful and serious about that process," Ms. Yates said. "I don't know of anything that gives me any concerns."

After months of investigation, Mr. Papadopoulos remained largely a puzzle. And agents were nearly ready to close their investigation of Mr. Flynn, according to three current and former officials. (Mr. Flynn rekindled the F.B.I.'s interest in November 2016 by signing an op-ed article that appeared to be written on behalf of the Turkish government, and then making phone calls to the Russian ambassador that December.)

In late October, in response to questions from The Times, law enforcement officials acknowledged the investigation but urged restraint. They said they had scrutinized some of Mr. Trump's advisers but had found no proof of any involvement with Russian hacking.

The resulting article, on Oct. 31, reflected that caution and said that agents had uncovered no “conclusive or direct link between Mr. Trump and the Russian government.”

The key fact of the article — that the F.B.I. had opened a broad investigation into possible links between the Russian government and the Trump campaign — was published in the 10th paragraph.

A year and a half later, no public evidence has surfaced connecting Mr. Trump’s advisers to the hacking or linking Mr. Trump himself to the Russian government’s disruptive efforts. But the article’s tone and headline — “Investigating Donald Trump, F.B.I. Sees No Clear Link to Russia” — gave an air of finality to an investigation that was just beginning.

Democrats say that article pre-emptively exonerated Mr. Trump, dousing chances to raise questions about the campaign’s Russian ties before Election Day.

Just as the F.B.I. has been criticized for its handling of the Trump investigation, so too has The Times.

For Mr. Steele, it dashed his confidence in American law enforcement. “He didn’t know what was happening inside the F.B.I.,” Glenn R. Simpson, the founder of Fusion GPS, testified this year. “And there was a concern that the F.B.I. was being manipulated for political ends by the Trump people.”

James B. Comey, the former F.B.I. director, in January 2017. He assured Mr. Trump, who at the time was the president-elect, that the bureau intended to protect him as Mr. Steele's reports were about to be published by news outlets. Al Drago/The New York Times

Assurances Amid Doubt

Two weeks before Mr. Trump's inauguration, senior American intelligence officials briefed him at Trump Tower in Manhattan on Russian hacking and deception. They reported that Mr. Putin had tried to sow chaos in the election, undermine Mrs. Clinton and ultimately help Mr. Trump win.

Then Mr. Comey met with Mr. Trump privately, revealing the Steele reports and warning that journalists had obtained them. Mr. Comey has said he feared making this conversation a "J. Edgar Hoover-type situation," with the F.B.I. presenting embarrassing information to lord over a president-elect.

In a contemporaneous memo, Mr. Comey wrote that he assured Mr. Trump that the F.B.I. intended to protect him on this point. “I said media like CNN had them and were looking for a news hook,” Mr. Comey wrote of Mr. Steele’s documents. “I said it was important that we not give them the excuse to write that the F.B.I. had the material.”

Mr. Trump was not convinced — either by the Russia briefing or by Mr. Comey’s assurances. He made up his mind before Mr. Comey even walked in the door. Hours earlier, Mr. Trump told The Times that stories about Russian election interference were being pushed by his adversaries to distract from his victory.

And he debuted what would quickly become a favorite phrase: “This is a political witch hunt.”

Correction: May 16, 2018

An earlier version of this article misstated that news organizations did not report on the findings of the retired British spy Christopher Steele about links between Trump campaign officials and Russia. While most news organizations whose reporters met with Mr. Steele did not publish such reports before the 2016 election, Mother Jones magazine did.

Reporting was contributed by Michael S. Schmidt, Sharon LaFraniere, Mark Mazzetti and Matthew Rosenberg.

Follow Adam Goldman and Nicholas Fandos on Twitter: @adamgoldmanNYT and @npfandos.

A version of this article appears in print on May 17, 2018, on Page A1 of the New York edition with the headline: How F.B.I. Embarked, With Strictest Secrecy, On Trump Team’s Trail

Exhibit 3

NATION NATIONAL SECURITY POLITICS

Mueller's "Pit Bull" Andrew Weissmann under scrutiny as Rosenstein agrees to turn over documents to Nunes



Sara Carter · January 5, 2018 3,268

The Department of Justice has agreed to turn over all documents related to the controversial dossier to the House Intelligence Committee after four months of wrangling and legal threats ended in a Wednesday night phone call and agreement.

House Intelligence Committee Chairman Devin Nunes, R-CA, and Deputy Attorney General Rod Rosenstein spoke at length Wednesday night, just hours before Nunes' imposed midnight deadline on the Justice Department passed.

Rosenstein not only agreed to provide all the documents requested, which include unredacted FBI interviews with witnesses, as well as access to eight key FBI and DOJ witnesses but information on Andrew Weissmann, who's now a senior member of the special counsel.

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Moreover, the committee notes that the Justice Department is "researching records related to the details of an April 2017

meeting between DOJ Attorney Andrew Weissmann (now the senior attorney for Special Counsel Robert Mueller) and the media, which will also be provided to this Committee by close of business on Thursday, January 11, 2018." Weissmann, who is considered a top criminal prosecutor, was described in a New York Times report as Mueller's "legal Pit Bull."

Justice Department officials could not be immediately reached for comment.

Judicial Watch, a government watchdog group, released multiple internal Justice Department emails in early December, showing senior employees of the Justice Department lavishing praise on then-former acting Attorney General Sally Yates after she defied President Donald Trump's January, 2017, travel ban executive order.

"I am so proud," Weissmann told Yates in an email.

Weissmann, who joined Mueller's team in June, was then a top prosecutor in the Justice Department's criminal division.

"And in awe. Thank you so much. All my deepest respects."

Yates was fired by Trump for her insubordination.

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Weissmann's role in the Special Counsel is significant. He is described as Mueller's right hand man the investigation, which appears to be expanding from its original edict to investigate alleged collusion between members of the Trump campaign with Russia, to a broader financial investigation of Trump, members of his family and campaign officials.

"It is my hope that this agreement will provide the Committee with all outstanding documents and witnesses necessary to complete its investigations into matters involving DOJ and FBI," stated Nunes in the letter. "As agreed, designated Committee investigators and staff will be provided access to all remaining investigative documents, in un-redacted review at DOJ on Friday, January 5, 2018."

The committee will review all documents to include "FBI Form FD- 1023s and all remaining FBI Form FD- 302s responsive to the Committee's August 24, 2017 subpoenas," the letter states. The FD-302 forms are the reported summaries of interviews conducted by the FBI.

Nunes states there is only one "agreed-upon exception pertains to a single FD-302, which, due to national security interests, will be shown separately by (FBI) Director (Christopher) Wray to myself and my senior investigators during the week of January 8, 2018."

He added that the committee "is extremely concerned by indications that top U.S. Government officials who were investigating a presidential campaign relied on unverified information that was funded by the opposing political campaign and was based on Russian sources."

The salacious and unsubstantiated dossier was compiled by former British MI-6 spy Christopher Steele, who was paid by the security firm Fusion GPS. The Washington Post revealed in October, the Democratic National Committee and Clinton campaign paid Fusion GPS for the opposition research conducted by Steele.

Nunes had originally issued subpoenas for the documents and records on Aug. 24, but committee staff told this reporter

they had been "stonewalled" by both the FBI and Justice Department for months.

"Going forward, it's crucial that we memorialize our conversations on this issue, and that we're as transparent as possible with the American people, who deserve answers to the questions the Committee is investigating," Nunes states.

Exhibit 4

U.S. HOUSE OF REPRESENTATIVES
PERMANENT SELECT COMMITTEE
ON INTELLIGENCE

HVC-304, THE CAPITOL
WASHINGTON, DC 20515
(202) 225-4121

January 4, 2018

The Honorable Rod Rosenstein
Deputy Attorney General
U.S. Department of Justice
1201 Pennsylvania Ave, NW
Washington, D.C. 20004

Dear Mr. Rosenstein:

Pursuant to our phone call yesterday evening, I write to memorialize the agreement we reached regarding compliance with the subpoenas issued by the House Permanent Select Committee on Intelligence (the Committee) on August 24, 2017, to the Department of Justice (DOJ) and Federal Bureau of Investigation (FBI), as well as several other outstanding requests by the Committee for information and interviews. It is my hope that this agreement will provide the Committee with all outstanding documents and witnesses necessary to complete its investigations into matters involving DOJ and FBI.

As agreed, designated Committee investigators and staff will be provided access to all remaining investigative documents, in unredacted form, for review at DOJ on Friday, January 5, 2018. The documents to be reviewed will include all FBI Form FD-1023s and all remaining FBI Form FD-302s responsive to the Committee's August 24, 2017 subpoenas. The only agreed-upon exception pertains to a single FD-302, which, due to national security interests, will be shown separately by Director Wray to myself and my senior investigators during the week of January 8, 2018.

You further confirmed that there are no other extant investigative documents that relate to the Committee's investigations into (a) Russian involvement in the 2016 Presidential election or (b) DOJ/FBI's related actions during this time period. This includes FD-302s, FD-1023s, and any other investigatory documents germane to the Committee's investigations, regardless of form and/or title. If, somehow, "new" or "other" responsive documents are discovered, as discussed, you will notify me immediately and allow my senior investigators to review them shortly thereafter.

With respect to the witness interviews requested by the Committee, you have agreed that all such witnesses – namely, former DOJ Associate Deputy Attorney General Bruce Ohr; FBI Supervisory Special Agent Peter Strzok; former FBI General Counsel James Baker; FBI Attorney Lisa Page; FBI Attorney Sally Moyer; FBI Assistant Director Greg Brower; FBI Assistant Director Bill Priestap; and FBI Special Agent James Rybicki – will be made available for interviews to be conducted in January.

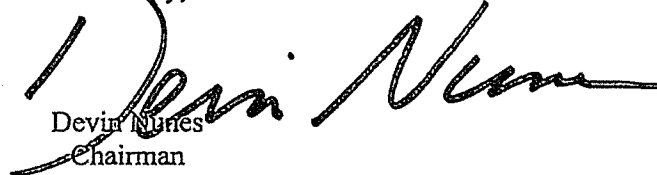
Lastly, as to the remaining approximately 9,500 text messages between FBI Supervisory Special Agent Peter Strzok and his mistress, FBI Attorney Lisa Page, it is my understanding based on your representations that another search is being conducted and all relevant messages will be provided. Accordingly, the Committee requests production of these messages by no later than close of business, Thursday, January 11, 2018. Similarly, I understand that your office is researching records related to the details of an April 2017 meeting between DOJ Attorney Andrew Weissman (now the senior attorney for Special Counsel Robert Mueller) and the media, which will also be provided to this Committee by close of business on Thursday, January 11, 2018.

It was further agreed that all documents made available to the Committee will also be available for review by the minority Ranking Member and designated staff.

The materials we are requesting are vital to the Committee's investigation of potential abuses into intelligence and law enforcement agencies' handling of the Christopher Steele dossier. The Committee is extremely concerned by indications that top U.S. Government officials who were investigating a presidential campaign relied on unverified information that was funded by the opposing political campaign and was based on Russian sources. Going forward, it's crucial that we memorialize our conversations on this issue, and that we're as transparent as possible with the American people, who deserve answers to the questions the Committee is investigating.

The subpoenas issued August 24, 2017, remain in effect.

Sincerely,

A handwritten signature in black ink, appearing to read "Devin Nunes", written over a horizontal line.

Devin Nunes
Chairman

Copies to:

The Honorable Jeff Sessions, Attorney General

The Honorable Christopher Wray, Director, Federal Bureau of Investigation

Exhibit 5

NATION POLITICS

Weissmann met with AP to discuss Manafort case before joining special counsel



Sara Carter • January 21, 2018 687

A senior Justice Department prosecutor in Robert Mueller's Special Counsel office held a meeting with Associated Press journalists last spring to discuss an investigation into Paul Manafort's financial record, a day before the wire service published a major expose disclosing alleged money laundering made by the former and now embattled Trump campaign chairman.

Federal prosecutor Andrew Weissmann, now a senior attorney in the special counsel's office, met with AP journalists on April 11 after reporters informed him of their own investigation into Manafort's dealings with Ukrainian officials. The reporters had reached out to Weissman on a different story earlier in the year and it was during that conversation, that the AP team told Weissmann of their investigation into Manafort, stated the sources. The AP published the explosive expose on April 12, a day after their meeting with Weissmann.

According to sources familiar with the meeting, the reporters had promised to share documents and other information gleaned from their own investigation with the Justice Department.

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AP spokeswoman Lauren Easton said Thursday, "we refrain from discussing our sources."

“Associated Press journalists meet with a range of people in the course of reporting stories, and we refrain from discussing relationships with sources. However, the suggestion that AP would voluntarily serve as the source of information for a government agency is categorically untrue,” added Easton.

At the time of the meeting, Weissmann was head of the Justice Department’s fraud division. He was the most senior member of the Justice Department to join the special counsel in May.

Sources said Weissmann, had notified his superiors about the arranged meeting with the AP and at the time of the meeting he was not assigned to the Manafort probe and had no knowledge of the state of the investigation. Weissmann didn’t have access to grand jury materials, didn’t have access to reports and his role was solely to facilitate the meeting because the AP reached out to him, the officials added.

The officials noted that no commitment was made to assist the reporters with their investigation into Manafort’s life or activity.

The AP meeting arranged by Weissmann came to light in a letter sent to Justice Department Deputy Attorney General Rod Rosenstein from House Intelligence Committee Chairman Devin Nunes, R-CA, late last year, requesting specific FBI and DOJ documentation related to the controversial Fusion GPS dossier that alleged collusion between the Trump campaign and Russia.

Rosenstein not only agreed to provide all the documents requested, which include unredacted FBI interviews with witnesses, as well as access to eight key FBI and DOJ witnesses but said they would provide the committee with information on Weissmann, as reported last week.

The committee letter noted that the Justice Department is “researching records related to the details of an April 2017 meeting

between DOJ Attorney Andrew Weissmann (now the senior attorney for Special Counsel Robert Mueller) and the media, which will also be provided to this Committee by close of business on Thursday, January 11, 2018.”

That meeting with the AP was attended by three different litigating offices. Two employees from the U.S. Justice Department and the other representative was from the U.S. Attorney’s office, according to the sources. FBI agents also attended the meeting, law enforcement sources confirmed.

Peter Carr, a spokesman for Mueller, declined to comment. Chief Justice Department spokeswoman Sarah Isgur Flores also declined to comment.

However, the Justice Department and FBI have specific guidelines that must be followed when obtaining documents or information from the media, according to the DOJ website.

“Members of the Department may not employ the use of the investigative tool at issue until the Criminal Division has responded in writing,” the guideline states. “Accordingly, to ensure appropriate consideration, members of the Department should submit requests for authorization or consultation pursuant to this policy at least 30 days before the anticipated use of the covered law enforcement tool.”

Carr declined to comment on whether the AP shared documentation or information with Weissmann. He also declined to comment on whether Weissmann followed appropriate DOJ procedures for the meeting to obtain documentation.

And Weissmann’s role in arranging the meeting did not go over well with FBI officials, who issued a complaint to the Justice Department suggesting Weissmann didn’t follow normal procedures for dealing with journalists. The FBI was concerned the meeting with the journalists could harm the ongoing probe into Russia’s involvement

in the 2016 presidential election, according to sources with knowledge of the information.

The news organization published the Manafort story a day after the meeting on April 12. The story revealed that roughly \$1.2 million in payments listed for Manafort in a handwritten ledger in Ukraine had been deposited into his U.S. bank accounts.

After the AP published a series of investigative stories, Manafort was forced to file numerous late lobbying reports. Those reports showed he was paid millions by pro-Russian interests in Ukraine. Manafort has pleaded innocent to the felony charges and last week filed a lawsuit trying to remove Mueller as the special prosecutor in the case.

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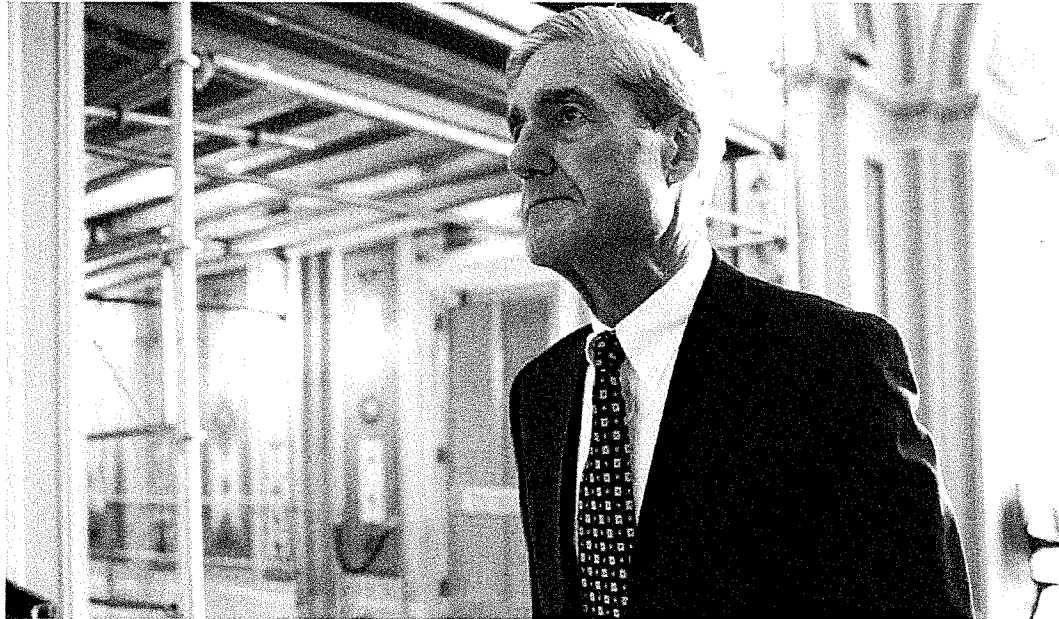
Exhibit 6



— THE ALL-NEW —
AUTOTRADER

SHOP ALL THE CARS

Mueller moves to muscle out Manafort's lawyers from grilling prosecutors



FILE - In this June 21, 2017, file photo, special counsel Robert Mueller departs after a meeting on Capitol Hill in Washington. Mueller's team considers President Donald Trump a subject, not a criminal target, in the wide-ranging Russia investigation. The ... more >

By Rowan Scarborough - *The Washington Times* - Wednesday, May 16, 2018

Special counsel Robert Mueller is trying to head off the Paul Manafort defense team from questioning his prosecutors over press leaks.

Mr. Mueller filed papers in U.S. District Court in Virginia opposing a request from Manafort attorney Kevin Downing to hold an investigative hearing into the rash of press reports on Mr. Manafort, President Trump's former campaign manager.

Mr. Downing cited 10 stories, sourced to unnamed people who implicated Mr. Manafort in possible criminal activity. He contends the information came from grand jury testimony, which would be illegal for a prosecutor to leak.

In a footnote to his filing, Mr. Mueller's lead prosecutor, Andrew Weissmann, makes a preemptive argument before District Court Judge T. S. Ellis III. If the judge does allow a hearing, Mr. Downing should not be allowed to question special counsel prosecutors or other Justice Department lawyers.

"To the extent Manafort contemplates testimony by Department of Justice attorneys, he would have to overcome the rule that testimony from prosecutors trying criminal cases is 'disfavored,'" Mr. Weissmann's brief says, citing previous court rulings.

Mr. Weissmann was in the Justice Department as chief of its fraud division before Mr. Mueller recruited him in May 2017.

Judge Ellis has set a May 25 hearing date.

Mr. Mueller may have reason to worry: Judge Ellis rebuked his prosecution strategy versus Mr. Manafort.

From the bench May 4, he said Mr. Mueller brought charges in financial transactions that happened years ago, before Mr. Manafort joined the Trump campaign. Since they have nothing to do with Russian election interference, Mr. Mueller's real intent is to convince Mr. Manafort to nail President Trump, the judge said.

Mr. Manafort was indicted on charges of money laundering and failing to report on tax returns the millions he earned from advising pro-Moscow politicians in Ukraine. The indictment does not mention Russian meddling in the 2016 election which is Mr. Mueller's principal scope.

There is an interesting briefing footnote.

Mr. Weissmann says he made a separate private filing with the judge which "provides the court additional information concerning one article."

Mr. Weissmann does not identify "the one article" out of the 10 stories cited by Mr. Downing.

Rep. Devin Nunes, California Republican, and chairman of the House Permanent Select Committee on Intelligence, has asked the Justice Department to provide information on a meeting Mr. Weissmann conducted with news reporters last year when he headed the fraud division.

As one of 10 stories, Mr. Downing cites a February 2017 article by the New York Times which said the U.S. owned a year's worth of intercepts and phone records between the Trump campaign and Russian intelligence.

On its face, the article is evidence of collusion. But former FBI Director James Comey testified to Congress that the story was wrong and that he warned senior leaders not to believe it.

The New York Times article said, "The officials said that one of the advisers picked up on the calls was Paul Manafort, who was Mr. Trump's campaign chairman for several months last year and had worked as a political consultant in Ukraine. The officials declined to identify the other Trump associates on the calls."

The story said Mr. Manafort communicated with Russian and Ukrainian intelligence.

But Mr. Downing's brief says he has asked Mr. Mueller for any evidence that Mr. Manafort communicated with Russian officials. Mr. Mueller reported back that he had none, Mr. Downing said.

"Despite multiple discoveries.... requests in this regard, the special counsel has not produced any materials to the defense---no tapes, notes, transcripts or any other material evidencing surveillance or intercepts of communications between Mr. Manafort and Russian intelligence officials, Russian government officials (or any other foreign officials). The office of special counsel has advised that there are no materials responsive to Mr. Manafort's requests."

Of the 10 stories cited, Mr. Downing said, "This is but a small sampling of the improper disclosures made by government officials regarding the defendant," Mr. Downing said.

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Exhibit 7



McCabe just made life tough for Comey and the special counsel

BY JONATHAN TURLEY, OPINION CONTRIBUTOR — 03/17/18 10:00 AM EDT
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Following his termination late Friday night, former FBI deputy director Andrew McCabe declared that he was "singled out" after "unrelenting" attacks by President Trump and critics. McCabe's objections are less than credible, given the virtually unprecedented recommendation of career officials to fire the one-time acting FBI director.

However, McCabe may have rectified his "singled out" status with his long statement criticizing his termination: In the middle of it is a line that could be viewed as incriminating fired FBI director James Comey, not just in leaking sensitive information but also in lying to Congress.

McCabe is accused of misleading investigators about allegedly giving information to a former Wall Street Journal reporter about the investigation of Hillary Clinton and the Clinton family's charitable foundation. McCabe asserts in his post-firing statement that he not only had authority to "share" that information to the media but did so with the knowledge of "the director." The FBI director at the time was Comey.

"I chose to share with a reporter through my public affairs officer and a legal counselor," McCabe stated. "As deputy director, I was one of only a few people who had the authority to do that. It was not a secret, it took place over several days, and others, including the director, were aware of

ceremony

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the interaction with the reporter."

If the "interaction" means leaking the information, then McCabe's statement would seem to directly contradict statements Comey made in a May 2017 congressional hearing. Asked if he had "ever been an anonymous source in news reports about matters relating to the Trump investigation or the Clinton investigation" or whether he had "ever authorized someone else at the FBI to be an anonymous source in news reports about the Trump investigation or the Clinton investigation," Comey replied "never" and "no."

The Justice Department's inspector general clearly saw this "interaction" as problematic in seeking answers from McCabe. If the inspector general considered this to be a leak to the media, any approval by Comey would be highly significant. Comey already faces serious questions over his use of a Columbia University Law School professor to leak information to the media following his own termination as director.

In leaving the FBI last year, Comey improperly removed memos about the Russian investigation that he wrote concerning meetings with Trump. Since these memos discussed an ongoing FBI investigation and were written on an FBI computer, the bureau reportedly confirmed they were viewed as official documents subject to review and approval prior to any removal or disclosure.

Comey could have given the memos to the congressional oversight committees. Instead, he removed at least seven memos and gave at least four to his professor-friend to leak to the media. Four of the seven memos that Comey removed are now believed to be classified. Since he reportedly gave four memos to his friend to leak to the media, at least one of the leaked memos was likely classified.

Now, McCabe appears to be suggesting that Comey was consulted before the alleged leak to the media on the Clinton investigation. Many of us had speculated that it seemed unlikely McCabe would take such a step without consulting with Comey. Yet, Comey repeatedly stated that he had never leaked nor caused anyone to leak information to the media.

The timing for Comey could not be worse. He already has started selling tickets, for roughly \$100 each, to attend the tour for his forthcoming book, "A Higher Loyalty: Truth, Lies, and Leadership." If he gave McCabe the green light for his "interaction," the title could prove embarrassingly ironic.

If this was determined to be a leak with his approval, Comey likely would be labeled not just a leaker but a liar. Worse, his second-in-command just lost his pension after more than 20 years with the bureau, while Comey is about to cash in on a book and publicity tour potentially worth millions.

Comey also will be releasing his book around the same time as the inspector general's report is expected to be made public. The inspector general reportedly will detail a number of irregularities under Comey's watch. So the book could look more like a work of fiction if the inspector general finds that the FBI was a mess under Comey's "leadership."

McCabe's termination is likely to only add to Comey's problems. Four U.S.

senators are calling for appointment of a second special counsel to investigate the Justice Department during the Clinton investigation. Moreover, there could be serious questions raised over the indictment of former Trump national security adviser Michael Flynn for misleading investigators, which is the same allegation that McCabe faced before his termination. McCabe's case could still be referred to prosecutors for possible indictment under the same provision used against Flynn.

The McCabe controversy could also make life tougher for special counsel Robert Mueller. While McCabe lashed out at Trump in his statement, he may have just given Trump the long-sought cover to use his pardon power. If McCabe is not charged, Trump could cite that decision as the basis for pardoning Flynn, as a matter of equity and fairness.

More generally, the apparent conduct of both McCabe and Comey have fulfilled the narrative long advanced by Trump of a biased and unprincipled FBI investigation. Given Trump's ill-advised inclination to fire Mueller in the past, these allegations of leaks and misrepresentations inside the FBI could rekindle Trump's interest in forcing an end to the investigation that has dogged his administration for a year.

Trump would be unwise to take such action. Instead, McCabe's firing should reinforce calls for an independent investigation with the maximum level of transparency. The same is true for the Russia investigation of the Trump campaign. This country is deeply divided over the allegations against Trump and his opponents. We will not overcome this chasm until we are satisfied that we have the full factual record from the Clinton and Russia investigations.

This is particularly true for the FBI, which will not be able to regain the trust of many Americans without making a clean break from scandal. That means total transparency, which runs against the bureau's culture. Yet, without greater disclosure, the public will be left wondering if a sense of Comey's "Higher Loyalty" dangerously blurred the lines between "Truth, Lies, and Leadership."

Jonathan Turley is the Shapiro Professor of Public Interest Law at [George Washington University](#). You can follow him on Twitter [@JonathanTurley](#).

**TAGS HILLARY CLINTON ROBERT MUELLER ANDREW MCCABE DONALD TRUMP JAMES COMEY
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TOPICS

PLUS ONE



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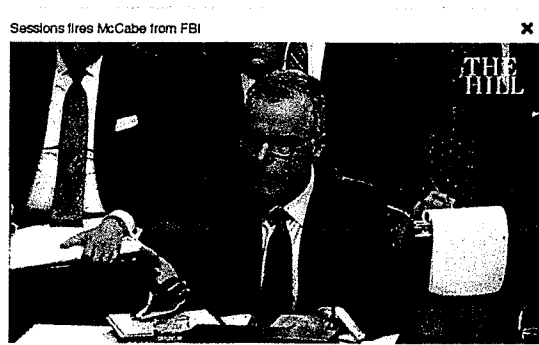


Exhibit 8

CORRUPTION

Declassified Congressional Report: James Clapper Lied About Dossier Leaks To CNN

A newly declassified report on Russian interference in the 2016 U.S. elections reveals that former intelligence chief James Clapper lied to Congress about information he shared with CNN on the infamous Steele dossier.

Buried within a newly declassified congressional report on Russian meddling in the 2016 U.S. elections is a shocking revelation: former Director of National Intelligence (DNI) James Clapper not only leaked information about the infamous Steele dossier and high-level government briefings about it to CNN, he also may have lied to Congress about the matter.

In one of the findings within the 253-page report, the House intelligence committee wrote that Clapper leaked details of a dossier briefing given to then-President-elect Donald Trump to CNN's Jake Tapper, lied to Congress about the leak, and was rewarded with a CNN contract a few months later.

"Clapper flatly denied 'discussing[ing] the dossier [compiled by Steele] or any other intelligence related to Russia hacking of the 2016 election with journalists,'" the committee found.

When asked directly whether he had ever discussed the dossier with any journalists, Clapper replied that he had not, according to a transcript of the proceedings:

MR. ROONEY: Did you discuss the dossier or any other intelligence related to Russia hacking of the 2016 election with journalists?

MR. CLAPPER: No.

The former DNI later changed his story after he was confronted specifically about his communications with Jake Tapper of CNN.

“Clapper subsequently acknowledged discussing the ‘dossier with CNN journalist Jake Tapper,’ and admitted that he might have spoken with other journalists about the same topic,” the report continued. “Clapper’s discussion with Tapper took place in early January 2017, around the time IC leaders briefed President Obama and President-elect Trump, on ‘the Christopher Steele information,’ a two-page summary of which was ‘enclosed in’ the highly-classified version of the ICA,” or intelligence community assessment.

The briefing of Trump by U.S. intelligence chiefs was held on January 6. CNN published its story on the briefing, based on anonymous leaks from “two national security officials,” on January 10. BuzzFeed published the full dossier, which was jointly funded by the Hillary Clinton campaign and the Democratic National Committee, minutes after the CNN story was published.

The revelation that Clapper was responsible for leaking details of both the dossier and briefings to two presidents on the matter is significant, because former Federal Bureau of Investigation (FBI) director James Comey wrote in one of four memos that he leaked that the briefing of Trump on salacious and unverified allegations from the dossier was necessary because “CNN had them and were looking for a news hook.”

The congressional report on Russian interference noted that it was this very briefing of Trump that multiple media organizations used as an excuse to publish the unverified dossier.

“The Committee assesses that leaks to CNN about the dossier were especially significant, since CNN’s report ‘that a two-page synopsis of the report was given to President Obama and Trump’ was the proximate cause of BuzzFeed News’ decision to publish the dossier for the first time just a few hours later,” the report stated. “Until that point, the dossier had been ‘circulating among elected official, intelligence agents, and journalists,’ but remained unpublished. As the accompanying article explained, ‘[n]ow BuzzFeed News is publishing the full document so that Americans can make up their own minds about allegations about the president-elect that have circulated at the highest levels of government.’”

As *The Federalist*’s Mollie Hemingway noted after Comey’s memos were finally made available to the public, the fired FBI director’s account of the briefing of Trump suggested that the entire briefing was a setup from the beginning, and that it was scheduled and held just so it could be leaked to journalists who wanted an excuse to publish a dossier nobody had verified.

In their coordinated response to the full intelligence committee’s findings, committee Democrats defended Clapper, claiming that he broke no laws while acknowledging that he did leak information about the dossier to CNN’s Jake Tapper.

“Evaluated in context, Clapper denied leaking classified information, while acknowledging that, as DNI, he engaged in legitimate discussion of unclassified, non-intelligence information with Tapper,” they concluded.

Clapper, who previously lied to Congress about whether the U.S. government was electronically spying on millions of Americans, was subsequently hired by CNN just months after his leak. Although he eventually apologized to Sen. Dianne Feinstein (D-Calif.) for lying to Congress about government mass surveillance of American citizens, he subsequently told MSNBC that the question to which he responded—"Does the NSA collect any type of data at all on millions or hundreds of millions of Americans?"—was a gotcha question similar to, "When did you stop beating your wife?"

Sean Davis is the co-founder of The Federalist.

KTLA.com

Exhibit 9

TIME Spiro Agnew's Lawyer: How the Russia Leaks Could Backfire in Court



Donald Trump (L) stands with Trump National Security Adviser Lt. General Michael Flynn (R) at Mar-a-Lago in Palm Beach, Florida, on Dec. 21, 2016. JIM WATSON—AFP/Getty Images

By MARTIN LONDON June 7, 2017

IDEAS

London is a retired partner for the law firm Paul, Weiss, Rifkind, Wharton & Garrison and the author of The Client Decides; he was a principal lawyer for Vice President Spiro Agnew.

Our press is proud of its open hunt for government secrets. Reporting them is highly rewarding. Images of Woodward and Bernstein dance in the heads of journalists for publications large

and small. The audience loves it and applauds the winners. The subjects (as in, the losers) whine about “leaks” and watch the simultaneous emergence of the truth and the decline of their power.

But amidst the celebration, there are important questions being forgotten today with regards to the investigation into whether the Russian state colluded with the Donald Trump campaign. They go beyond the charging of an NSA contractor for allegedly sharing classified intelligence.

For one, what happens when agents or agencies of the government leak information, be it true or false, that may affect the result of a criminal inquiry into the subjects? How can a grand jury make a reasoned decision when it is deluged with government-sourced leaks, even before that jury is selected and sworn?

Some of Trump’s former colleagues — Paul Manafort, Michael Flynn, Carter Page, et al — come to mind. All are certainly going to be at the center of Special Counsel Robert Mueller’s focus. All face the risk of grand jury indictment.

And yet, if Mueller impanels a grand jury, can that body distinguish what it has read and seen from government sourced leaks, from what is later presented to them in licit proceedings? Have the leaks already seriously handicapped Mueller if he chooses to go the grand jury route?

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History teaches the answer may be yes.

In 1973, Vice President Spiro Agnew was the target of a massive barrage of leaks asserting he had taken pay-for-play bribes when he was Governor of Maryland. Dozens of newspaper articles reported alleged details of the Maryland U.S. Attorney's investigation. The press reports sourced the information to "Justice Department officials" and "senior government officers."

I co-represented Agnew in the case, and when discussions between our team and the Department of Justice broke down, Attorney General Elliot Richardson announced he was about to submit evidence to a grand jury. We moved to stop him from doing so. We argued the plethora of government leaks had fatally compromised the criminal inquiry.

The District Judge appointed to handle the matter, Walter E. Hoffman, of Virginia, was clearly upset by the leaks. He crafted a special grand jury charge in which he said:

We are rapidly approaching the day when the perpetual conflict between the news media, operating as they do under freedom of speech and freedom of the press, and the judicial system, charged with protecting the rights of persons under investigation for criminal acts, must be resolved.

But how? The judge said that in the face of the government's denials of the leaks, he was not prepared simply to accept the reporters' government-source attributions.

We made a proposal. We would put both sides under oath, the government and the press. We had prepared a written order giving us the right to depose specific Department of Justice officials as well as a group of reporters who had written stories saying the source of their information was "Department of Justice officials." The U.S. Attorney's team was apoplectic at the notion of these unprecedented depositions. While they howled, the judge signed.

This put the government in a pressure cooker. The Justice Department tasked the FBI with investigating more than one hundred Department of Justice personnel, all of whom signed affidavits they had not leaked. But either one or more of them were lying, or the score of reporters covering the story were. I believed the reporters, and so did the judge.

The press, of course, went berserk at the prospect of being obliged to answer our questions under oath, and reporters and their prominent publishers threatened to accept jail sentences before they revealed sources. But as far as we were concerned, they already *had* revealed their sources. It was all right there in the first paragraph of their

published pieces — their source was Department of Justice officialdom! We would have made our case by just asking whether, when they wrote that their source was the Department of Justice, they were telling the truth. There is no way they could have legally avoided answering that question. Jail was in the foreseeable future.

In the end, the safety device on the pressure cooker blew. Every person in the Justice Department with knowledge of the investigation had sworn to the FBI they had not leaked. Obviously, one or more had lied, and the government recognized it. Their people faced perjury charges, reporters faced contempt sanctions and the government faced the risk its leaks had fatally infected the case against the Vice President. The result was the government yielded to the pressure and agreed to permit Vice President Agnew to take a nolo plea — to accept a conviction without admitting guilt and to resign with light fine. That was it.

The press, of course, was outraged. What great irony. They had taken the government's handouts, which provided the factual basis for our move to achieve the exact result they denounced.

Leaks are a double-edged sword. They inform the public, but prejudice the fair-trial rights of those under investigation. We never have resolved the conflict between the First Amendment rights of the press and the Sixth Amendment rights of those who are the subject of press scrutiny. While the press may have “convicted” Manafort, Flynn, Page, et al on the front pages, they may have, at the same time, effectively immunized them from prosecution.

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