

WNDC



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From the Committee on Public Policy and Political Action

Karen Pataky, Chair

The UN Report on Biodiversity

On May 6, 2019 the UN released a statement based on the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services' research and analysis. The report concluded that the rate of species extinction is more rapid than ever before in human history—more than 1 million species face extinction within the next decade, most of which have not received media attention. However, out-of-sight, out-of-mind has never been a viable option for preventing extinction. The report states that the only strategy that shows promise is “transformative change,” that is, “fundamental, system-wide reorganization across technological, economic, and social factors, including paradigms, goals, and values.” It focuses on environmental factors that contribute to changing ecosystems and ranks five direct drivers as the most impactful:

1. Changes in land and sea use
2. Direct exploitation of organisms
3. Climate change
4. Pollution
5. Invasive alien species

In the US, our biggest change in land use is large-scale agriculture (agribusiness) for the mass production of food. To meet US food demands, agribusiness mass produces a few crop variants. These farming practices (monoculture) limit the variety of plant species produced, which limits the number and variety of pollinators essential to crop growth. Those that do pollinate commercial crops are exposed to pesticides.

Pesticides are dangerous contributors to the extinction trend. While they target pests, they also leach into soil and groundwater and harm soil microbes as well as birds, fish, non-target plants, and favorable insects, including pollinators. The danger of soil microbe loss is difficult to reckon exactly, but we do know that healthy soils provide the backbone for healthy, resilient ecosystems. Microbes are specialized to the crops around them. Therefore, lack of crop diversity diminishes soil biodiversity which makes crops less resilient to climate change, pests, disease, and pesticides. Crop rotation can mitigate these dangers, but agribusiness only rotates crops when it is financially profitable.

According to the UN, “Land degradation has reduced the productivity of 23% of the global land surface; up to US\$577 billion in annual global crops are at risk from pollinator loss and 100–300 million people are at increased risk of floods and hurricanes because of loss of coastal habitats and protection.” Loss of plant, pollinator, and soil biodiversity threatens ecosystem stability, food security, and ultimately our economy. We must push for stricter policies that embody the transformative change the UN is calling for. While we cannot stop climate change, we can fight for more resilient landscapes and less damaging agricultural practices. We can push for education on environmental issues and understanding of how our actions affect the natural world. Otherwise, species loss and climate change and the resultant economic devastation will be much worse, much sooner.

—Becky Keteltas, for the Earth and Environment Task Force, Public Policy Committee

The Mueller Report Unpacked - Part 1

An Emerging Theme of Donald Trump's Presidency and Russia's Attack on the 2016 Presidential Election

By Tracy Weiss, Co-chair, Foreign Policy Task Force, WNDU Committee on Public Policy and Political Action

Overview

I am in the process of reading the entire redacted Special Counsel Office's (SCO) Report on the Investigation into Russian Interference[1] in the 2016 Presidential Election (Report). I will break my analysis into three successive parts: part one follows below and focuses on Russia's attack on the 2016 Election and related unanswered questions; next month, part two will analyze the conspiracy section of the Report; and, in July, part three will focus on the obstruction of justice section of the Report. This analysis does not attempt to summarize the entire Report or every detail contained therein. Rather, read in its entirety, this analysis seeks to provide a broad overview of the Report's key findings and how those findings fit into the larger picture of current threats and events.

The Emerging Theme of Trump: Promises Made, Promises Broken

A recurring theme has emerged from the candidacy and presidency of Donald J. Trump (Trump), namely: Promises Made, Promises Broken. [2] For but a few examples, candidate Trump promised to not only provide Americans with better healthcare plans at lower prices but also protect, if not expand, current coverage of pre-existing conditions. Yet, President Trump has failed to offer any improved or enhanced healthcare plans; moreover, he has repeatedly sought to undermine, weaken, and vacate the Affordable Care Act in its entirety, including those sections protecting coverage for the millions of Americans with pre-existing conditions and allowing young adults to stay on their parents' plans. Candidate Trump promised to "drain the swamp." Yet, President Trump has arguably run the most corrupt and self-dealing administration in modern United States (U.S.) history. Candidate Trump promised that America would be respected again in the world. Yet, President Trump has weakened decades-old alliances, withdrawn the U.S. from key arms control agreements, repeatedly failed to stand up against human rights abuses across the world, embraced despots, and withdrawn the U.S. from key international agreements—all of which have served to weaken America's global standing. Candidate Trump promised to improve the lives of Hispanics, African-Americans, and other minorities and asked what they had to lose by voting for him. President Trump then promptly issued the Muslim Ban, adopted heartless immigrant family separation and child detention policies, referred to several African countries as "shi*hole" or "shi*house" countries, and said there were "very fine people" amongst the white supremacists who marched August 11-12, 2017 in Charlottesville, Virginia. Candidate Trump promised to keep America safe. Yet, President Trump has denied that human activity contributes to climate change, rolled back regulations that promote clean water and air, gutted leadership at the Departments of Homeland Security (DHS) and Defense, and most relevant to this paper, refused to even acknowledge—let alone defend against—not only Russia's attacks on the 2016 Election but also its ongoing attacks against future U.S. elections. The remainder of this paper will focus on this last broken promise.

SCO Finding 1: Russia attacked the 2016 Election

While the Report leaves many questions unanswered or unresolved, it makes at least one fact crystal clear: Russia attacked the 2016 Election. Indeed, on page 1 of the Report, the SCO unambiguously states "[t]he Russian government interfered in the 2016 presidential election in sweeping and systematic fashion." [3] The Report then details how Russia conducted a multi-pronged attack against the 2016 Election.

First, a Russian entity called the Internet Research Agency (IRA) conducted a social media campaign[4] from 2014 through the 2016 Election. Initially, the IRA operated social media accounts and group pages "designed to provoke and amplify political and social discord in the United States." [5]

By February 2016, however, the IRA's operations changed to directly support candidate Trump and oppose candidate Hillary Rodham Clinton (Clinton) for President.[6] As detailed in the Report, throughout 2016, the IRA's social media accounts published an increasing number of materials supporting Trump's 2016 presidential campaign (Trump Campaign) and opposing Clinton's 2016 presidential campaign (Clinton Campaign); the IRA also organized multiple pro-Trump events and rallies.[7] By the time of the 2016 Election, the IRA had the ability to reach an estimated 126 million[8] U.S. persons through its various social media accounts.[9]

Second, in early 2016, the Russian intelligence service known as the Main Intelligence Directorate of the General Staff of the Russian Army (GRU) opened up a new operation to support the Trump Campaign and hurt the Clinton Campaign by: (1) hacking the servers and/or personal e-mail accounts of many Democratic entities and individuals; (2) publicly and strategically releasing the hacked materials most likely to damage the Clinton Campaign; and, (3) targeting individuals and entities (such as state boards of elections, secretaries of state, county governments, election-related hardware and software companies, and people who worked for these entities[10]) involved in the administration of U.S. elections.[11]

Specifically, "[i]n March 2016, the GRU began hacking the email accounts of Clinton Campaign volunteers and employees, including campaign chairman John Podesta" (Podesta).[12] In April 2016, the GRU then "hacked into the computer networks of the Democratic Congressional Campaign Committee (DCCC) and the Democratic National Committee (DNC)."[13] In total, the GRU "stole hundreds of thousands of documents from the compromised email accounts and networks." [14] Moreover, on July 27, 2016—just a few hours after candidate Trump said "Russia, if you're listening, I hope you're able to find the 30,000 [Clinton] e-mails that are missing . . ."—the GRU targeted Clinton's personal office for the first time.[15] Indeed, after candidate Trump's public request for Russia to find Clinton's private e-mails, "the GRU created and sent malicious links to 15 e-mail accounts" with a domain related in some way to Clinton.[16]

The GRU not only stole hundreds of thousands of e-mails and documents from the DNC, DCCC, and the personal e-mail accounts of members of the Clinton Campaign but also facilitated their public release and dissemination with the goal of helping the Trump Campaign and hurting the Clinton Campaign.[17] The GRU released the stolen materials through two fictitious online personas it created—"DCLeaks" and "Guccifer 2.0"—and later through WikiLeaks.[18] The DCLeaks website remained operational from April 2016 through March 2017.[19] This site published thousands of stolen documents from the personal e-mail accounts of multiple people associated with the Clinton Campaign.[20] From June 15, 2016 through October 18, 2016, Guccifer 2.0 posted thousands of documents that the GRU stole from the DNC and DCCC servers. [21] Starting in June 2016, the GRU also used Guccifer 2.0 "to release documents directly to reporters and other interested individuals." [22] In addition, the GRU, through its DCLeaks and Guccifer 2.0 personas, transferred many of the documents they stole from both Podesta and the DNC to WikiLeaks.[23]

WikiLeaks started publishing the hacked materials in July 2016.[24] On July 22, 2016—three days before the beginning of the Democratic National Convention—"WikiLeaks released over 20,000 e-mails and other documents stolen from the DNC computer networks." [25] Perhaps even more strikingly, WikiLeaks began releasing the stolen Podesta e-mails on October 7, 2016—within one hour of the release of the highly inflammatory and damaging Trump "Access Hollywood" Tape.[26] WikiLeaks deliberately chose to "save its best [Clinton-related] revelations for last, under the theory this allows little time for [Clinton's] response prior to the U.S. [2016] [E]lection." [27] Thus, between October 7, 2016 and

November 7, 2016—i.e. during the final stretch of the 2016 Presidential campaign—WikiLeaks released 33 tranches of stolen e-mails and documents, including “over 50,000 documents stolen from Podesta’s personal e-mail account.”[28] Ultimately, WikiLeaks appears to have successfully timed its releases of the stolen materials to maximize both their benefit to candidate Trump and damage to candidate Clinton.[29]

Unanswered Questions regarding Russia’s Attack on the 2016 Election

One of the greatest, and most important, unanswered questions regarding Russia’s attack on the 2016 Election is whether or not it materially altered the final 2016 Election results. We now know that, by the time the 2016 Election occurred, the IRA had the ability to spread its pro-Trump, anti-Clinton propaganda to approximately 126 million Americans through its social media accounts.”[30] We also now know that the GRU not only stole hundreds of thousands of Democratic e-mails and documents but also strategically facilitated and timed the public dissemination of those hacked materials with the goal of helping to elect candidate Trump.[31] What we do not—and likely cannot—know is the true impact this Russian activity had on the final outcome of the 2016 Election.

Several outstanding election security questions persist, however, that can and must be answered. The Report details numerous ways that Russia, through the GRU, targeted individuals and entities involved in the administration of U.S. elections.[32] For a few brief examples: in June 2016, the GRU compromised the computer network of the Illinois State Board of Elections, gained access to a database containing information on millions of registered Illinois voters, and successfully extracted data on thousands of U.S. voters; the GRU then, over a two-day period in July 2016, scanned more than 24 states’ state and local websites for election-related vulnerabilities; and, between August and November 2016, the GRU sent spearfishing e-mails that successfully installed malware on both the network of a voting technology company “used by numerous U.S. counties to manage voter rolls,”[33] as well as on the network of at least one Florida county government.[34] While the SCO identified evidence of the GRU’s repeated cyber attacks on U.S. voting apparatus and infrastructure and/or persons associated with it, the SCO did not further investigate these attacks; instead, the SCO noted that the FBI and/or DHS have investigated them.[35] Yet, the American public still knows very little about the extent of these intrusions, whether they materially altered the 2016 Election results, and the threat they pose to future election security. Indeed, in a recent speech, Deputy Attorney General Rod Rosenstein stated “[t]he bottom line is, there was overwhelming evidence [in the Report] that Russian operatives hacked American computers and defrauded American citizens, and that is only the tip of the iceberg of a comprehensive Russian strategy to influence [U.S.] elections, promote social discord and undermine America.”[36] Congress and the media must, therefore, further investigate and reveal to the American public the full extent of Russia’s past and ongoing election-related cyber attacks to ensure not only continued confidence in U.S. election results but also the very preservation of U.S. democracy itself.

Footnotes:

- [1] Unless in a direct quote, I will not use the quaint verbs of “meddled” or “interfered” to describe Russia’s attack on the U.S. 2016 presidential election (2016 Election).
- [2] The Washington Post fact checkers estimate that President Trump has made more than 10,000 false or misleading claims. Available at (as of April 30, 2019): https://www.washingtonpost.com/politics/2019/04/29/president-trump-has-made-more-than-false-or-misleading-claims/?utm_term=.5327921cff7d.
- [3] Report, Vol. I, p. 1.
- [4] Primarily using Facebook, YouTube, Twitter, Tumblr, and Instagram. See Report, Vol. I, pp. 14, 15, & 22.
- [5] Report, Vol. I, p. 4.
- [6] Report, Vol. I, pp. 14 & 23.
- [7] Report, Vol. I, pp. 25-35.
- [8] Report, Vol. I, p. 15, note 6.
- [9] Report, Vol. I, p. 14.
- [10] Report, Vol. I, pp. 4 & 50-51.
- [11] Report, Vol. I, pp. 50-51.
- [12] Report, Vol. I, p. 4.
- [13] Report, Vol. I, p. 4.
- [14] Report, Vol. I, p. 4.
- [15] Report, Vol. I, p. 49.
- [16] Report, Vol. I, p. 49.
- [17] Report, Vol. I, p. 41.
- [18] Report, Vol. I, p. 41.
- [19] Report, Vol. I, pp. 41-42.
- [20] Report, Vol. I, p. 41.
- [21] Report, Vol. I, p. 42.
- [22] Report, Vol. I, p. 43.
- [23] Report, Vol. I, p. 44.
- [24] Report, Vol. I, p. 5.
- [25] Report, Vol. I, p. 46.
- [26] Report, Vol. I, p. 5.
- [27] Report, Vol. I, p. 64.
- [28] Report, Vol. I, p. 48.
- [29] Report, Vol. I, pp. 5 & 46-48.
- [30] Report, Vol. I, pp. 14-15, including note 6.
- [31] Report, Vol. I, pp. 4 & 41-49.
- [32] Report, Vol. I, pp. 50-51.
- [33] Report, Vol. I, p. 51.
- [34] Report, Vol. I, pp. 50-51.
- [35] Report, Vol. I, pp. 50-51.
- [36] Available at (as of May 5, 2019): <https://www.npr.org/2019/04/29/717594782/if-mueller-report-was-tip-of-the-iceberg-what-more-is-lurking-unseen>.

The Mueller Report Unpacked - Part 2

Making Sense of the SCO's Conspiracy Findings

By Tracy Weiss, Co-chair, Foreign Policy Task Force, WNDU Committee on Public Policy and Political Action

Overview

As detailed in Part 1 of this WNDU Special Report, the Special Counsel's Office (SCO)[1] found that Russia conducted a multi-pronged attack—designed to benefit candidate Trump and hurt candidate Clinton—against the 2016 Election. Specifically, Russia’s IRA operated a far-reaching[2] pro-Trump and anti-Clinton social media and crowd-gathering operation. In addition, the Russian GRU: (i) hacked the servers and/or personal e-mail accounts of many Democratic entities and individuals; (ii) publicly and strategically released the hacked materials most likely to damage the Clinton Campaign; and, (iii) conducted cyber intrusions against individuals and entities (such as state boards of elections, secretaries of state, county governments, election-related hardware and software companies, and people who worked for these entities) involved in the administration of U.S. elections.[3]

As part of its investigation, the SCO examined whether any member of the Trump Campaign criminally conspired with the Russian government to attack the 2016 Election. The SCO ultimately found that “while the investigation identified numerous links between individuals with ties to the Russian government and individuals associated with the Trump Campaign, the evidence was not sufficient to support criminal [conspiracy] charges.”[4] Importantly, though, the SCO specified that just because its investigation “did not establish” particular facts beyond a reasonable doubt to charge members of the Trump Campaign with the crime of conspiracy, it “does not mean there was no evidence of those facts.”[5]

The SCO Found Evidence that Members of the Trump Campaign Had at least 140 Contacts with Russians and/or WikiLeaks

The Report sets forth significant evidence establishing that numerous links existed between members of the Trump Campaign, Russians (including Russian government officials, oligarchs, and members of the IRA), and/or WikiLeaks. In fact, a recent New York Times (NYT) article entitled “Mueller Report Shows Depth of Connections Between Trump Campaign and Russians,” concludes that “Trump and 18 of his associates had at least 140 contacts with Russian nationals and WikiLeaks, or their intermediaries, during the 2016 [presidential] campaign and presidential transition.”[6] While an exhaustive summary of each of these 140 contacts exceeds the scope of this article, some key examples follow:

1) Members of the Trump Campaign Promoted IRA and GRU Propaganda, Directly Communicated with WikiLeaks, and/or Disseminated Links to the Hacked Materials.

While the SCO “did not find evidence that any U.S. persons knowingly or intentionally coordinated with the IRA’s interference operations,”[7] it found multiple examples of U.S. persons who unknowingly promoted or assisted the IRA’s attacks on the 2016 Election.[8] The SCO separately identified “two different forms of connections between the IRA and members of the Trump Campaign,” and no similar connections between the IRA and

members of the Clinton Campaign.[9] First, members and surrogates of the Trump Campaign—including but not limited to Donald Trump, Jr. (Trump Jr.), Eric Trump, Kellyanne Conway, Michael Flynn (Flynn), Brad Parscale, and even candidate Trump—promoted[10] pro-Trump and/or anti-Clinton content published by the IRA.[11] Second, “IRA employees represented themselves as U.S. persons to communicate with members of the Trump Campaign in an effort to seek assistance and coordination on IRA-organized political rallies inside the United States.”[12] Notably, Attorney General William Barr’s (AG Barr) office redacted for “personal privacy” purposes key information under the section titled “Targeting and Recruitment of U.S. Persons,” thereby hiding the names of those Americans who may have unwittingly aided Russia’s attack on the 2016 Election.[13]

The SCO investigation also found that the GRU directly communicated with a close Trump ally[14]through Guccifer 2.0 on topics ranging from the hacked materials, including “info on the turnout model for the democrats entire presidential campaign[,]” to offers of further assistance to the Trump Campaign.[15] AG Barr heavily redacted sections in the Report addressing these communications, as well as the SCO’s related charging and declination decisions.[16]

AG Barr also heavily redacted sections in the Report addressing the Trump Campaign’s contacts with and about WikiLeaks and the SCO’s related charging and declination decisions.[17] Despite these redactions, however, it is clear that: members of the Trump Campaign “showed interest in WikiLeaks’s releases of documents and welcomed their potential to damage candidate Clinton”[18]; and, the Trump Campaign had advance knowledge of and made plans around at least some of WikiLeaks’ releases of the stolen DNC, DCCC, and Podesta materials. [19] In addition, the SCO established that Trump Jr. not only had direct electronic communications with WikiLeaks during the 2016 presidential campaign period (2016 Campaign) but also publicly retweeted and/or disseminated multiple WikiLeaks-related links during that time.[20]

2) Members of the Trump Campaign Welcomed Russians’ Offers of “Dirt” on Clinton

Multiple members of the Trump Campaign—including Trump Jr.,[21] Jared Kushner (Kushner),[22] and foreign policy advisor George Papadopoulos (Papadopoulos),[23]—welcomed the opportunity to receive “dirt” on Clinton from a variety of Russians with ties to Putin as “part of Russia and its government’s support for [candidate] Trump.”[24]

3) Members of the Trump Campaign Gave Internal Trump Campaign Polling Data and Other Confidential Strategic Campaign Information to Russians.

On several occasions, members of the Trump Campaign—including Manafort and Deputy Campaign Manager Rick Gates (Gates)—provided Trump Campaign updates and information to a Russian national and longtime Manafort employee with suspected ties to Russian intelligence named Konstantin Kilimnik (Kilimnik).[25] The information that Manafort and Gates repeatedly shared with Kilimnik throughout the 2016 Campaign included internal Trump Campaign polling data, which Manafort expected Kilimnik to share with both Ukrainian oligarchs and Russian oligarchs closely aligned with Putin like Oleg Deripaska.[26] Ultimately, the SCO “could not reliably determine Manafort’s purpose in sharing internal polling data with Kilimnik during the campaign period.”[27]

Manafort also personally met with Kilimnik twice in the U.S. during the 2016 Campaign.[28] At these meetings, Manafort conveyed to Kilimnik additional Trump Campaign information—including his strategy for Trump to win the election and identification of Michigan, Wisconsin, Pennsylvania, and Minnesota as the key “battleground” states.[29]

4) Several Members of the Trump Campaign and Transition Team Sought to Set Up Meetings with or Obtain Input from Individuals with Ties to the Russian Government.

Several members of the Trump Campaign—including Papadopoulos (with the knowledge and/or support of candidate Trump, Manafort, then Senator Jeff Sessions (Sessions), senior policy advisor Stephen Miller, Sam Clovis, and Corey Lewandowski)[30]—collectively spent months over the 2016 Campaign trying to organize a meeting between Trump and Putin and/or members of the Trump Campaign and Russian government officials to benefit candidate Trump.[31]

Several senior members of the Trump Campaign—including Kushner and Sessions—sought specific foreign policy input and instruction, as well as introductions to foreign policy professionals, from a Washington, D.C. think-tank with “unparalleled access to Russian officials and politicians.”[32]

Immediately after Trump was elected President on November 8, 2016, persons connected to the Russian government—officials and prominent Russian businessmen—began contacting several members of the Trump Campaign and president-elect Trump’s transition team (Transition Team) through a variety of channels.[33] Per the Report, “[t]he most senior levels of the Russian government encouraged these efforts.”[34]

5) Several Members of the Trump Campaign and Transition Team Met and/or Directly Communicated with Individuals with Ties to the Russian Government.

Between 2013 and at least June of 2016, the Trump Organization—including Trump, Trump Jr., Ivanka Trump, and other employees—explored a licensing deal with several Russian counterparties with ties to Putin involving the construction of a mixed-use Trump-branded property in Moscow (Trump Tower Moscow).[35] Pursuant to the intended terms of the Trump Tower Moscow deal, which were finalized after Trump announced his candidacy for President,[36] “the Trump Organization stood to earn substantial sums over the lifetime of the project, without assuming significant liabilities or financing commitments.”[37] Throughout the 2016 Campaign, candidate Trump repeatedly lied to the American public about his organization’s ongoing negotiations with prominent Russians and the Russian government to create a Trump Tower Moscow.

During Manafort’s multiple meetings with Kilimnik throughout the campaign, Kilimnik pushed a “backdoor” plan for Russia to control eastern Ukraine and in subsequent communications stressed to Manafort that his plan’s success would require Trump’s support.[38] Manafort and Kilimnik discussed this plan on at least four occasions between 2016 and 2018. [39] But the SCO failed to uncover evidence—possibly due to Manafort’s lies and use of encrypted messaging during the 2016 Campaign—that established Manafort had told other members of the Trump Campaign about Kilimnik’s plan.[40]

Multiple members of the Trump Campaign and Transition Team—including Sessions, Kushner, and Flynn—met with the Russian Ambassador to the U.S., Sergei Kislyak (Kislyak), and/or Russian foreign policy advisor Yuri Ushakov.[41] During one of their first meetings at Trump Tower New York on November 30, 2016, “Kushner asked Kislyak if they could communicate using secure facilities at the Russian Embassy.”[42]

A couple of weeks later, on December 13, 2016, Kushner met with Sergey Gorkov (Gorkov), the head of the U.S.-sanctioned Russian-government-owned bank Vnesheconombank (VEB).[43] Ultimately, inconsistencies arose between Kushner’s and Gorkov’s accounts of that meeting; the SCO was unable to resolve those conflicts.[44]

And Flynn, in his role as incoming National Security Advisor, served as the Transition Team’s “primary conduit for communications with the Russian Ambassador [Kislyak] and dealt with Russia on two sensitive matters during the transition period: a United Nations Security Council vote [on Israeli settlements] and the Russian government’s reaction to the U.S.’s imposition of sanctions for Russian interference in the 2016

E]lection.”[45] With regard to the latter, Flynn asked Kislyak “not to escalate the situation in response to U.S. sanctions imposed on December 29, 2016, and Kislyak later reported to Flynn that Russia acceded to that request.”[46] Flynn subsequently pleaded guilty to lying to the FBI about his communications with Kislyak and cooperated with the SCO’s investigation. [47]

SCO Finding on Criminal Conspiracy: The SCO neither Charged nor Exonerated Members of the Trump Campaign

As detailed above, the SCO’s investigation established that numerous suspicious contacts occurred between members of the Trump Campaign and Russians with ties to Putin throughout the 2016 Campaign and transition period, including but not limited to: “business connections[;] offers of assistance [from Russians] to the [Trump] Campaign[;] invitations for candidate Trump and Putin to meet in person[;] invitations for [Trump] Campaign officials and representatives of the Russian government to meet[;] and policy positions seeking improved U.S.-Russian relations.”[48] The SCO’s investigation also established “that the Russian government perceived it would benefit from a Trump presidency and worked to secure that outcome”[49] The SCO’s investigation further established “that the [Trump] Campaign expected it would benefit electorally from information stolen and released through Russian efforts”[50] Nonetheless, the SCO ultimately concluded that “the evidence was not sufficient to support criminal [conspiracy] charges” [51] beyond a reasonable doubt.[52]

Understanding the SCO’s Declination Decisions

Given the number and nature of contacts between members of the Trump Campaign, Russians with ties to Putin, and/or WikiLeaks, the SCO’s decision not to charge any Americans with criminal conspiracy perplexed many people. Yet, as detailed in the Report, that decision proves less surprising in light of the strict standards adopted by the SCO, high burden of proof required to bring charges in this matter, and the many investigatory obstacles faced by the SCO.

In the practice of law, claims have core elements (generally set by statute and/or case law) that a party must establish to the given legal standard in order to successfully bring those claims. Here, in order for the SCO to have successfully brought a charge of conspiracy against any member of the Trump Campaign, the SCO would have had to establish each element of that crime beyond a reasonable doubt—the highest legal standard of proof.

While the SCO neither provided a legal definition of conspiracy nor identified all of the core legal elements it deemed necessary to establish the crime, it did specify that its conspiracy analysis included the factual question of whether members of the Trump Campaign “coordinated” with the Russian government in its attack on the 2016 Election.[53] The SCO then very narrowly defined “coordination” to mean an express or implied agreement between any member of the Trump Campaign and the Russian government to attack the 2016 Election.[54] Notably, the SCO “applied the term coordination in that [narrow] sense when stating in the [R]eport that the investigation did not establish that the Trump Campaign coordinated with the Russian government in its election interference activities.”[55] Indeed, in multiple instances, the SCO declined to bring conspiracy charges because its investigation did not establish that the suspicious contacts they uncovered “amounted to an agreement to commit any substantive violation of federal criminal law.”[56]

The SCO’s investigation also found insufficient evidence to establish “the knowledge or criminal purpose required”[57] under several of the contemplated federal conspiracy statutes.[58] For example, the SCO declined to charge any member of the Trump Campaign with conspiring to violate campaign-finance laws, in part, because the SCO “did not obtain admissible evidence likely to meet the government’s burden to prove beyond a reasonable doubt that these individuals acted ‘willfully,’ i.e., with general knowledge of the illegality of their conduct.”[59]

Moreover, in its Report, the SCO also documented the many investigatory obstacles it encountered. Specifically, some members of the Trump Campaign and other key witnesses “materially”[60] hindered the SCO’s investigation from obtaining key evidence by, among other tactics: invoking the Fifth Amendment; refusing to testify and/or produce relevant documents; providing false or incomplete testimony; erasing communications; and/or residing abroad.[61] Indeed, according to the SCO, “although the evidence of contacts between [Trump] Campaign officials and Russia-affiliated individuals may not have been sufficient to . . . sustain criminal charges, several U.S. persons connected to the [Trump] Campaign made false statements about those contacts and took other steps to obstruct the [Special Counsel] Office’s investigation and those of Congress.”[62] Accordingly, the SCO concluded that “while this [R]eport embodies factual and legal determinations that the [Special Counsel’s] Office believes to be accurate and complete to the greatest extent possible, given these identified gaps, the [Special Counsel’s] Office cannot rule out the possibility that the unavailable information would shed additional light on (or cast in a new light) the events described in the [R]eport.”[63] Phrased differently, some members of the Trump Campaign may have successfully obstructed the SCO from finding sufficient admissible evidence to charge them with criminal conspiracy.

Unanswered Questions Regarding the Trump Campaign’s Links to Russia and Other Foreign Governments

Given the variety of obstructive techniques employed against the SCO’s investigation, many questions persist regarding whether any member of the Trump Campaign cooperated and/or conspired with Russia in its attack on the 2016 Election. Thus, Congress and the media should continue to investigate the most suspicious contacts between members of the Trump Campaign, Russians, and/or WikiLeaks to fill in the “gaps” identified by the SCO.

Further, Volume I of the Report never discussed Trump’s tax returns or other financial records; thus, if the SCO did “follow the money,” it did not share any of its related findings. A recent NYT article entitled “Deutsche Bank Staff Saw Suspicious Activity in Trump and Kushner Accounts,” found that “[a]nti-money-laundering specialists at Deutsche Bank recommended in 2016 and 2017 that multiple transactions involving legal entities controlled by Donald J. Trump and his son-in-law, Jared Kushner, be reported [via suspicious activity reports (SARs)] to a federal financial-crimes watchdog.”[64] Some of these flagged “suspicious transactions” included findings that “money had moved from Kushner Companies to Russian individuals.”[65] But Deutsche Bank executives in the private bank, who had lent billions of dollars to Trump and Kushner companies, opted not to file the SARs with the government.[66]

Yet another NYT article, entitled “Trump Jr. and Other Aides Met with Gulf Emissary Offering Help to Win [2016] Election,” raised numerous questions about suspicious contacts between members of the Trump Campaign or Transition Team with persons with close ties to the governments of not only Russia but also the United Arab Emirates (UAE) and Saudi Arabia.[67] The article discussed more Trump Tower meetings involving additional foreign offers of “social media manipulation efforts to help elect Mr. Trump”; it also noted that a Trump loyalist made a large (estimated \$2 million) payment to one such foreign offeror after Trump’s inauguration.[68] While the SCO apparently investigated possible pro-Trump 2016 Election “interference” by the UAE, Saudi Arabia, and other foreign governments beyond Russia,[69] it did not specifically address those findings in the Report.

Based on the above, Congress and the media must investigate and reveal to the American public: (1) whether any foreign government—in addition to Russia—“interfered” in the 2016 Election to help elect Trump; (2) whether Trump or any member of the Trump Campaign has been financially leveraged or otherwise compromised by Russia, Saudi Arabia, the UAE or any other foreign government, and if so, whether they have acted for that country’s benefit—even if to America’s detriment; and, (3) if yes to 1 or 2, who, how and to what effect

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Unanswered Questions Regarding the Trump Campaign's Links to Russia and Other Foreign Governments

Given the variety of obstructive techniques employed against the SCO's investigation, many questions persist regarding whether any member of the Trump Campaign cooperated and/or conspired with Russia in its attack on the 2016 Election. Thus, Congress and the media should continue to investigate the most suspicious contacts between members of the Trump Campaign, Russians, and/or WikiLeaks to fill in the "gaps" identified by the SCO.

Further, Volume I of the Report never discussed Trump's tax returns or other financial records; thus, if the SCO did "follow the money," it did not share any of its related findings. A recent NYT article entitled "Deutsche Bank Staff Saw Suspicious Activity in Trump and Kushner Accounts," found that "[a]nti-money-laundering specialists at Deutsche Bank recommended in 2016 and 2017 that multiple transactions involving legal entities controlled by Donald J. Trump and his son-in-law, Jared Kushner, be reported [via suspicious activity reports (SARs)] to a federal financial-crimes watchdog."^[64] Some of these flagged "suspicious transactions" included findings that "money had moved from Kushner Companies to Russian individuals."^[65] But Deutsche Bank executives in the private bank, who had lent billions of dollars to Trump and Kushner companies, opted not to file the SARs with the government.^[66]

Yet another NYT article, entitled "Trump Jr. and Other Aides Met with Gulf Emissary Offering Help to Win [2016] Election," raised numerous questions about suspicious contacts between members of the Trump Campaign or Transition Team with persons with close ties to the governments of not only Russia but also the United Arab Emirates (UAE) and Saudi Arabia.^[67] The article discussed more Trump Tower meetings involving additional foreign offers of "social media manipulation efforts to help elect Mr. Trump"; it also noted that a Trump loyalist made a large (estimated \$2 million) payment to one such foreign offeror after Trump's inauguration.^[68] While the SCO apparently investigated possible pro-Trump 2016 Election "interference" by the UAE, Saudi Arabia, and other foreign governments beyond Russia,^[69] it did not specifically address those findings in the Report.

Based on the above, Congress and the media must investigate and reveal to the American public: (1) whether any foreign government—in addition to Russia—"interfered" in the 2016 Election to help elect Trump; (2) whether Trump or any member of the Trump Campaign has been financially leveraged or otherwise compromised by Russia, Saudi Arabia, the UAE or any other foreign government, and if so, whether they have acted for that country's benefit—even if to America's detriment; and, (3) if yes to 1 or 2, who, how and to what effect.

COMING NEXT IN PART 3: THE REPORT'S OBSTRUCTION SECTION UNPACKED.

Footnotes:

- [1] Unless otherwise defined herein, all defined terms have the same meaning as set forth in "The Mueller Report Unpacked—Part 1," available (as of May 16, 2019) at: <https://democraticwoman.org/public-policy/statements-resolutions/2019-2/>.
- [2] By the time of the 2016 Election, the IRA had the ability to reach an estimated 126 million U.S. persons through its various social media accounts. See Report, Vol. I, pp. 14-15, including note 6.
- [3] See, generally, WNDP Special Report "The Mueller Report Unpacked—Part 1," available (as of May 16, 2019) at: <https://democraticwoman.org/public-policy/statements-resolutions/2019-2/>.
- [4] Report, Vol. I, p. 9.
- [5] Report, Vol. I, p. 2.
- [6] Available (as of April 29, 2019) at: <https://www.nytimes.com/interactive/2019/01/26/us/politics/trump-contacts-russians-wikileaks.html?searchResultPosition=1> (emphasis in original).
- [7] Report, Vol. I, p. 14.
- [8] See Report, Vol. I, pp. 31-33 & 174-175.
- [9] Report, Vol. I, p. 33.
- [10] Typically by linking, retweeting, or reposting IRA social media postings.
- [11] Report, Vol. I, pp. 33 & 34, including notes 96–105.
- [12] Report, Vol. I, p. 33.
- [13] See Report, Vol. I, pp. 31-33, including notes 89-94.
- [14] AG Barr redacted the identity of this person, citing harm to an ongoing matter. Based on public reports, however, the Trump ally and former Trump Campaign member is likely Roger Stone.
- [15] Report, Vol. I, p. 44 (internal quotations omitted).
- [16] Report, Vol. I, pp. 51-59, 175-180, 183-84, & 188-191.
- [17] See, Report, Vol. I, pp. 44, 51-65, 175-180, 183-84, & 188-191.
- [18] Report, Vol. I, p. 5.
- [19] Report, Vol. I, p. 53-56.
- [20] Report, Vol. I, pp. 59-60.
- [21] Report, Vol. I, pp. 110-115 & 185.
- [22] Report, Vol. I, pp. 108-115.
- [23] Report, Vol. I, pp. 66, 81, 89, & 95.
- [24] Report, Vol. I, pp. 66 & 110 (internal quotations omitted).
- [25] Report, Vol. I, pp. 129 & 132-134.
- [26] Report, Vol. I, pp. 129 & 136.
- [27] Report, Vol. I, p. 130.
- [28] Report, Vol. I, pp. 130 & 138.
- [29] Report, Vol. I, pp. 130 & 140.
- [30] Report, Vol. I, pp. 86 & 89-93.
- [31] Report, Vol. I, pp. 71-80, 84, 86-92, & 106.
- [32] Report, Vol. I, pp. 103-105 (internal quotations omitted) & 107-108.
- [33] Report, Vol. I, pp. 144-173.
- [34] Report, Vol. I, p. 144.
- [35] Report, Vol. I, p. 67.
- [36] Trump announced his candidacy on June 16, 2015; the terms quoted herein were finalized between October 13, 2015 and November 2, 2015. See Report, Vol. I, p. 70.
- [37] Report, Vol. I, p. 71.
- [38] Report, Vol. I, pp. 130, 139-140, & 142-143 (internal quotations omitted).
- [39] Report, Vol. I, pp. 138-144.
- [40] Report, Vol. I, pp. 130 & 144.
- [41] Report, Vol. I, pp. 127-30, 159-161, & 167.
- [42] Report, Vol. I, pp. 160-161.
- [43] Report, Vol. I, p. 161.
- [44] Report, Vol. I, pp. 162-163.
- [45] Report, Vol. I, p. 167.
- [46] Report, Vol. I, p. 167.
- [47] Report, Vol. I, p. 167, note 1207.
- [48] Report, Vol. I, p. 5.
- [49] Report, Vol. I, p. 5.
- [50] Report, Vol. I, p. 5.
- [51] Report, Vol. I, p. 9.
- [52] The highest legal standard of proof.
- [53] Report, Vol. I, p. 2.
- [54] Report, Vol. I, p. 2.
- [55] Report, Vol. I, p. 2.
- [56] Report, Vol. I, p. 181 (emphasis added).
- [57] Report, Vol. I, p. 175.
- [58] Report, Vol. I, pp. 175, 183-185.
- [59] Report, Vol. I, p. 186.
- [60] Report, Vol. I, p. 9.
- [61] Report, Vol. I, pp. 9-10.
- [62] Report, Vol. I, p. 180 (emphasis added).
- [63] Report, Vol. I, p. 10.
- [64] Available (as of May 29, 2019) at: <https://www.nytimes.com/2019/05/19/business/deutsche-bank-trump-kushner.html>.
- [65] See (as of May 29, 2019): <https://www.nytimes.com/2019/05/19/business/deutsche-bank-trump-kushner.html>.
- [66] See (as of May 29, 2019): <https://www.nytimes.com/2019/05/19/business/deutsche-bank-trump-kushner.html>.
- [67] Available (as of June 3, 2019) at: <https://www.nytimes.com/2018/05/19/us/politics/trump-jr-saudi-uae-nader-prince-zamel.html?searchResultPosition=1>.
- [68] See (as of June 3, 2019): <https://www.nytimes.com/2018/05/19/us/politics/trump-jr-saudi-uae-nader-prince-zamel.html?searchResultPosition=1>.
- [69] See (as of June 3, 2019): <https://www.nytimes.com/2018/05/19/us/politics/trump-jr-saudi-uae-nader-prince-zamel.html?searchResultPosition=1>.