

THE MUELLER REPORT REDACTIONS AND THE CLAIMS ABOUT “COLLUSION”

On Volume II page 121 of the Mueller Report, a partial transcript of the call Trump’s lawyer (WaPo says this is John Dowd) placed to Mike Flynn’s lawyer on November 22, 2017 appears, along with even more damning details about a follow-up call from the following day.

In late November 2017, Flynn began to cooperate with this Office. On November 22, 2017, Flynn withdrew from a joint defense agreement he had with the President.⁸³³ Flynn’s counsel told the President’s personal counsel and counsel for the White House that Flynn could no longer have confidential communications with the White House or the President.⁸³⁴ Later that night, the President’s personal counsel left a voicemail for Flynn’s counsel that said:

I understand your situation, but let me see if I can’t state it in starker terms. . . . [I]t wouldn’t surprise me if you’ve gone on to make a deal with ... the government. ... [I]f . . . there’s information that implicates the President, then we’ve got a national security issue, . . . so, you know, . . . we need some kind of heads up. Um, just for the sake of protecting all our interests if we can ...
[R]emember what we’ve always said about the ‘ President and his feelings toward Flynn and, that still remains 835

On November 23, 2017, Flynn’s attorneys returned the call from the President’s

personal counsel to acknowledge receipt of the voicemail.⁸³⁶ Flynn 's attorneys reiterated that they were no longer in a position to share information under any sort of privilege.⁸³⁷ According to Flynn's attorneys, the President's personal counsel was indignant and vocal in his disagreement.⁸³⁸ The President's personal counsel said that he interpreted what they said to him as a reflection of Flynn's hostility towards the President and that he planned to inform his client of that interpretation.⁸³⁹ Flynn's attorneys understood that statement to be an attempt to make them reconsider their position because the President's personal counsel believed that Flynn would be disturbed to know that such a message would be conveyed to the President.⁸⁴⁰

This is, of course, the call referenced in Flynn's less redacted cooperation addendum released last week. A whole slew of reporters who have claimed to have read the Mueller Report over the last month claimed that this passage had been redacted in the report, which is something that Quinta Jurecic and I had a bit of a laugh about on Chris Hayes' show Friday night.

In fact, there's likely to be very little of great interest submitted when the government complies with Judge Emmet Sullivan's order to submit an unclassified version of the Flynn passages of the report by May 31.

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|------------|----|---|
| 05/16/2019 | 25 | ATTACHMENT #1 by USA as to MICHAEL T. FLYNN. (b)(1) (Entered: 05/16/2019) |
| 05/16/2019 | 26 | ATTACHMENT #2 by USA as to MICHAEL T. FLYNN. (b)(1) (Entered: 05/16/2019) |
| 05/16/2019 | 27 | ATTACHMENT #3 by USA as to MICHAEL T. FLYNN. (b)(1) (Entered: 05/16/2019) |
| 05/16/2019 | | MINUTE ORDER as to MICHAEL T. FLYNN: The government is hereby ORDERED to file on the public docket in this case the transcript of the "voicemail recording" referenced in the 72 nd Addendum to Government's Memorandum in Aid of Sentencing and the transcripts of any other audio recordings of Mr. Flynn, including, but not limited to, audio recordings of Mr. Flynn's conversations with Russian officials, by no later than May 31, 2019. It is FURTHER ORDERED that the government shall submit to Chambers audio versions of the recordings on a DVD by no later than May 31, 2019. Signed by Judge Emmet G. Sullivan on 5/16/2019. (lmg35) (Entered: 05/16/2019) |
| 05/16/2019 | | MINUTE ORDER as to MICHAEL T. FLYNN: The government is hereby ORDERED to file the publicly-available version of Special Counsel Robert S. Mueller, III's Report on The Investigation Into Russian Interference in The 2016 Presidential Election on the public docket in this case by no later than May 17, 2019. The government is FURTHER ORDERED to file on the public docket in this case by no later than May 31, 2019 an unredacted version of those portions of the report that relate to Mr. Flynn. Signed by Judge Emmet G. Sullivan on 05/16/2019. (lmg35) (Entered: 05/16/2019) |
| 05/17/2019 | | See/Reset Deadlines as to MICHAEL T. FLYNN-Government to File Transcript Of The Voicemail Recording due by 5/31/2019; Government To File Publicly-Available Version Of Special Counsel Robert S. Mueller, III's Report On The Investigation Into Russian Interference In The 2016 Presidential Election On The Public Docket due by 5/17/2019; Government To File An Unredacted Version Of Portions That Relate To The Defendant due by 5/31/2019. (lmg35) (Entered: 05/17/2019) |

The revelation in Flynn's cooperation addendum that he provided information on close-hold discussions about WikiLeaks means some of those conversations may be unsealed in that production. But aside from that, this redaction

on Volume I page 183 – footnoting a discussion of the consideration of whether Flynn was a foreign agent and probably discussing an ongoing counterintelligence investigation into Russians, not Flynn – is the one of the only Flynn-related passages that might be of any interest that is not otherwise grand jury material.

1281 Harm to Ongoing Matter

With just a few notable exceptions, the redactions aren't that nefarious.

Using Grand Jury redactions to protect the President from political pressure

I've noted two exceptions to that. One is the way DOJ used grand jury redactions to hide the details of how both Donald Trumps refused to testify (even while Jr continues to be willing to testify before congressional committees that don't have all the evidence against him).

There are two redactions hiding details of what happened when Jr was subpoenaed.

Volume I page 117 on the June 9 meeting:

Trump Jr., Manafort, and Kushner participated on the Trump side, while Kaveladze, Samochomov, Akhmetshin, and Goldstone attended with Veselnitskaya.⁷²² The Office spoke to every participant except Veselnitskaya and Trump Jr., the latter of whom declined to be voluntarily interviewed by the Office. **Grand Jury**

Volume II page 105 on President Trump's involvement in writing the June 9 statement.

On July 12, 2017, the Special Counsel's Office **Grand Jury** Trump Jr. **Grand Jury** related to the June 9 meeting and those who attended the June 9 meeting.⁷³³

And there are two redactions hiding the discussion of subpoenaing Trump.

Volume II page 12 introducing the obstruction of justice analysis.

We also sought a voluntary interview with the President. After more than a year of discussion, the President declined to be interviewed. Grand Jury

During the course of our discussions, the President did agree to answer written questions on certain Russia-related topics, and he provided us with answers. He did not similarly agree to provide written answers to questions on obstruction topics or questions on events during the transition. Ultimately, while we believed that we had the authority and legal justification to issue a grand jury subpoena to obtain the President's testimony, we chose not to do so. We made that decision in view of the substantial delay that such an investigative step would likely produce at a late stage in our investigation. We also assessed that based on the significant body of evidence we had already obtained of the President's actions and his public and private statements describing or explaining those actions, we had sufficient evidence to understand relevant events and to make certain assessments without the President's testimony. The Office's decision-making process on this issue is described in more detail in Appendix C, *infra*, in a note that precedes the President's written responses.

Appendix C introducing Trump's non-responsive answers.

opportunity to voluntarily provide us with information for us to evaluate in the context of all of the evidence we have gathered."⁹ The President declined.¹⁰

Grand Jury

Grand Jury

Recognizing that the President would not be interviewed voluntarily, we considered whether to issue a subpoena for his testimony. We viewed the written answers to be inadequate. But at that point, our investigation had made significant progress and had produced substantial evidence for our report. We thus weighed the costs of potentially lengthy constitutional litigation, with resulting delay in finishing our investigation, against the anticipated benefits for our investigation and report. As explained in Volume II, Section II.B., we determined that the substantial quantity of information we had obtained from other sources allowed us to draw relevant factual conclusions on intent and credibility, which are often inferred from circumstantial evidence and assessed without direct testimony from the subject of the investigation.

¹¹ Grand Jury

¹² Grand Jury

These redactions are all ones that Congress should ask more about. If Don Jr told Mueller he would invoke the Fifth, we deserve to know that (particularly given his willingness to appear with less informed committees). More importantly, the role of Trump's refusal to answer questions (as well as any concerns he had about Don Jr's jeopardy) are necessary parts to any discussion of obstruction of justice.

Plus, the President of the United States should not be able to hide his unwillingness to cooperate with an investigation into his own wrong-doing by claiming it's grand jury material.

The use of "Personal Privacy" to hide central players

In his description of the four types of

redactions in the report, Bill Barr described the fourth – “personal privacy” – as relating to “peripheral third parties.”

As I explained in my letter of April 18, 2019, the redactions in the public report fall into four categories: (1) grand-jury information, the disclosure of which is prohibited by Federal Rule of Criminal Procedure 6(e); (2) investigative techniques, which reflect material identified by the intelligence and law enforcement communities as potentially compromising sensitive sources, methods, or techniques, as well as information that could harm ongoing intelligence or law enforcement activities; (3) information that, if released, could harm ongoing law enforcement matters, including charged cases where court rules and orders bar public disclosure by the parties of case information; and (4) information that would unduly infringe upon the personal privacy and reputational interests of peripheral third parties, which includes deliberation about decisions not to recommend prosecution of such parties.

Some of the PP redactions do pertain to genuinely peripheral players.

For example, sometimes they hide the random people with whom Russian trolls communicated.

¹⁰⁵ 8/23/16 Facebook Message, ID 100009922908461 (Matt Skiber) to ID [REDACTED]

In others, they hide the names of other victims of GRU hacking (including Colin Powell, who is not a private person but is peripheral to this discussion).

¹⁴⁰ See, e.g., Internet Archive, “<https://dcleaks.com/>” (archive date Nov. 10, 2016). Additionally, DCLeaks released documents relating to Personal Privacy [REDACTED], emails belonging to [REDACTED], and emails from 2015 relating to Republican Party employees (under the portfolio name “The United States Republican Party”). “The United States Republican Party” portfolio contained approximately 300 emails from a variety of GOP members, PACs, campaigns, state parties, and businesses dated between May and October 2015. According to open-source reporting, these victims shared the same

In other places, they hide the names of

genuinely unrelated people or businesses.

²⁷⁷ Financial Institution Record of Peter Smith and KLS Research LLC, 10/31/17
Grand Jury 10/11/16 Email, Smith to Personal Privacy

But as I have noted, Mueller treated this category as a declinations decision, not a privacy one.

I previously sent you a letter dated March 25, 2019, that enclosed the introduction and executive summary for each volume of the Special Counsel's report marked with redactions to remove any information that potentially could be protected by Federal Rule of Criminal Procedure 6(e); that concerned declination decisions; or that related to a charged case. [my emphasis]

Among the people Barr claims are "peripheral" players who have been investigated but not charged are Don Jr in the second redaction in this passage:

On October 20, 2017, the Acting Attorney General confirmed in a memorandum the Special Counsel's investigative authority as to several individuals and entities. First, "as part of a full and thorough investigation of the Russian government's efforts to interfere in the 2016 presidential election," the Special Counsel was authorized to investigate "the pertinent activities of Michael Cohen, Richard Gates, Personal Privacy, Roger Stone, and PP." "Confirmation of the authorization to investigate such individuals," the memorandum stressed, "does not suggest that the Special Counsel has made a determination that any of them has committed a crime." Second, with respect to Michael Cohen, the memorandum recognized the Special Counsel's authority to investigate "leads relate[d] to Cohen's establishment and use of Essential Consultants LLC to, *inter alia*, receive funds from Russian-backed entities." Third, the memorandum memorialized the Special Counsel's authority to investigate individuals and entities who were possibly engaged in "jointly undertaken activity" with existing subjects of the investigation, including Paul Manafort. Finally, the memorandum described an FBI investigation opened before the Special Counsel's appointment into "allegations that [then-Attorney General Jeff Sessions] made false statements to the United States Senate[.]" and confirmed the Special Counsel's authority to investigate that matter.

Carter Page on page 183.

The investigation did not, however, yield evidence sufficient to sustain any charge that any individual affiliated with the Trump Campaign acted as an agent of a foreign principal within the meaning of FARA or, in terms of Section 951, subject to the direction or control of the government of Russia, or any official thereof. In particular, the Office did not find evidence likely to prove beyond a reasonable doubt that Campaign officials such as Paul Manafort, George Papadopoulos, and Carter Page acted as agents of the Russian government—or at its direction, control, or request—during the relevant time period.¹²⁸² Personal Privacy

As a result, the Office did not charge PP any other Trump Campaign official with violating FARA or Section 951, or attempting or conspiring to do so, based on contacts with the Russian government or a Russian principal.

And KT McFarland and several other key players on page 199.

evidentiary hurdles to proving falsity. In others, the Office determined that the witness ultimately provided truthful information and that considerations of culpability, deterrence, and resource-preservation weighed against prosecution. See Justice Manual §§ 9-27.220, 9-27.230.

Personal Privacy

PP

Personal Privacy

Grand Jury

Personal Privacy

Grand Jury

Personal Privacy

PP

Grand Jury

Personal Privacy

PP

Personal Privacy

Don't get me wrong: I think these redactions are absolutely proper. The description of them, however, is not. Barr is pretending these people are "peripheral" to avoid having to admit, "in addition to Trump's Campaign Manager, Deputy Campaign Manager, Personal Lawyer, Life-Long Rat-Fucker, National Security Advisor, and Foreign Policy Advisor who have either pled guilty to, been found by a judge to have, or been indicted for lying in an official proceeding, Mueller seriously considered charging at least three other Trump associates with lying."

The expansive redactions pertaining to WikiLeaks and Roger Stone

So aside from the grand jury redactions hiding how Trump Sr and Jr dodged testifying and the way Barr describes the declinations redactions, I think the redactions are generally pretty

judicious. I'm less certain, though, about the redactions pertaining to Roger Stone, the bulk of which appear in Volume I pages 51 to 59, 188 to 191, 196 to 197. and Volume II, pages 17 to 18 and 128 to 130.

There are two reasons to redact this information: most importantly, to comply with the gag order imposed by Amy Berman Jackson that prohibits lawyers on either side from making statements that "pose a substantial likelihood of material prejudice" to Stone's case, or to hide information from Stone that he doesn't otherwise know.

Except that we know he has already gotten the latter category of information in discovery. In a filing opposing Stone's bid to get an unredacted copy of the Mueller Report, prosecutors noted that "disclosable information that may have been redacted from the public version of the Special Counsel's report to the Attorney General is already being provided to the defendant in discovery."

And it seems highly likely that some of the information in these redacted passages is stuff that would only prejudice Stone's case by raising the import of it to Trump.

Consider, for starters, that (unless I'm mistaken) not a word from Stone's indictment appears in this Report. For example, the descriptions of how Stone asked Jerome Corsi to ask Ted Malloch to find out what WikiLeaks had coming and a follow-up email reflecting knowledge that John Podesta would be targeted must be reflected on pages 55 and 56.

On or about July 25, 2016, STONE sent an email to Person 1 with the subject line, "Get to [the head of Organization 1]." The body of the message read, "Get to [the head of Organization 1] [a]t Ecuadorian Embassy in London and get the pending [Organization 1] emails . . . they deal with Foundation, allegedly." On or about the same day, Person 1

forwarded STONE's email to an associate who lived in the United Kingdom and was a supporter of the Trump Campaign.

On or about July 31, 2016, STONE emailed Person 1 with the subject line, "Call me MON." The body of the email read in part that Person 1's associate in the United Kingdom "should see [the head of Organization 1]."

On or about August 2, 2016, Person 1 emailed STONE. Person 1 wrote that he was currently in Europe and planned to return in or around mid-August. Person 1 stated in part, "Word is friend in embassy plans 2 more dumps. One shortly after I'm back. 2nd in Oct. Impact planned to be very damaging." The phrase "friend in embassy" referred to the head of Organization 1. Person 1 added in the same email, "Time to let more than [the Clinton Campaign chairman] to be exposed as in bed wenemy if they are not ready to drop HRC. That appears to be the game hackers are now about. Would not hurt to start suggesting HRC old, memory bad, has stroke – neither he nor she well. I expect that much of next dump focus, setting stage for Foundation debacle."

Page 56 actually includes new proof that Stone and Corsi *had* confirmed that Podesta's emails were coming. Malloch describes Corsi telling him about Podesta's emails, not vice versa.

Malloch stated to investigators that beginnin in or about Au ust 2016, he and Corsi had multiple Face Time discussions about WikiLeaks [redacted] had made a connection to Assange and that the hacked emails of John Podesta would be released prior to Election Day and would be helpful to the Trump Campaign. In one conversation in or around August or September 2016, Corsi told Malloch that the release of the Podesta emails was

coming, after which "we" were going to be in the driver's seat.221

Likewise, the indictment makes it clear that Stone was talking to the campaign about WikiLeaks releases.

ROGER JASON STONE, JR. was a political consultant who worked for decades in U.S. politics and on U.S. political campaigns. STONE was an official on the U.S. presidential campaign of Donald J. Trump ("Trump Campaign") until in or around August 2015, and maintained regular contact with and publicly supported the Trump Campaign through the 2016 election.

During the summer of 2016, STONE spoke to senior Trump Campaign officials about Organization 1 and information it might have had that would be damaging to the Clinton Campaign. STONE was contacted by senior Trump Campaign officials to inquire about future releases by Organization 1.

[snip]

By in or around June and July 2016, STONE informed senior Trump Campaign officials that he had information indicating Organization 1 had documents whose release would be damaging to the Clinton Campaign. The head of Organization 1 was located at all relevant times at the Ecuadorian Embassy in London, United Kingdom.

After the July 22, 2016 release of stolen DNC emails by Organization 1, a senior Trump Campaign official was directed to contact STONE about any additional releases and what other damaging information Organization 1 had regarding the Clinton Campaign. STONE thereafter told the Trump Campaign about potential future releases of damaging

material by Organization 1.

We see outlines of precisely who those references are to in the report.

Most notably, after describing Trump's enthusiasm after Stone told Trump while Michael Cohen was listening on the speaker phone that the DNC emails would drop in a few days just before they did (which Cohen described in his testimony to Oversight), these two paragraphs, appear to describe Manafort and Trump's enthusiasm after the DNC release, with Manafort telling both Stone directly and Gates that he wanted to be kept informed via Stone of what was coming. And having gotten some indication of what was coming, the campaign started making plans to optimize those releases. It appears that Gates, like Cohen before him, witnessed a Stone-Trump call where the rat-fucker told the candidate what was coming.

Harm to Ongoing Matter
According to Gates, Manafort expressed excitement about the release. ²⁰³ HOM Manafort, for his part, told the Office that, shortly after WikiLeaks's July 22 release, Manafort also spoke with candidate Trump.
Harm to Ongoing Matter
²⁰⁴ Harm to Ongoing Matter
²⁰⁵ Manafort also HOM wanted to be kept apprised of any

developments with WikiLeaks and separately told Gates to keep in touch HOM about future WikiLeaks releases.²⁰⁶

According to Gates, by the late summer of 2016, the Trump Campaign was planning a press strategy, a communications campaign, and messaging based on the possible release of Clinton emails by WikiLeaks.²⁰⁷ Harm to Ongoing Matter
²⁰⁸ Harm to Ongoing Matter
while Trump and Gates were driving to LaGuardia Airport.
Harm to Ongoing Matter, shortly after the call candidate Trump told Gates that more releases of damaging information would be coming.²⁰⁹

These pages also have more background about how important all this was to Trump, who was frustrated that Hillary's deleted emails hadn't been found (something also told, in Flynn's voice, in the Peter Smith section).

The references to Stone in these passages may well be appropriately redacted. But the descriptions of conversations between Trump and Manafort or Gates should not impact Stone's defense – unless you want to argue that Trump's personal involvement in Stone's rat-fucking might change the deliberations for a jury. They don't serve to hide Stone's actions. They hide

Trump's enthusiasm for using materials stolen by Russia to win.

This affects the "collusion" discussion

All of this has particular import given the basis on which Attorney General Bill Barr tried to exonerate the President for obstruction. In Barr's 4-page summary of the report, Barr emphasized that Trump did not conspire or coordinate with the Russian government, even going so far as to suggest that no Trump associate "conspired or coordinated with the Russian government on these efforts," efforts which in context include, "publicly disseminat[ing hacked] materials through various intermediaries, including WikiLeaks."

As the report states: "[T]he investigation did not establish that members of the Trump Campaign conspired or coordinated with the Russian government in its election interference activities."

[snip]

In assessing potential conspiracy charges, the Special Counsel also considered whether members of the Trump campaign "coordinated" with Russian election interference activities. The Special Counsel defined "coordinated" as an "agreement—tacit or express—between the Trump Campaign and the Russian government on election interference."

[snip]

The second element involved the Russian government's efforts to conduct computer hacking operations designed to gather and disseminate information to influence the election. The Special Counsel found that Russian government actors successfully hacked into computers and

obtained emails from persons affiliated with the Clinton campaign and Democratic Party organizations, and publicly disseminated those materials through various intermediaries, including WikiLeaks. Based on these activities, the Special Counsel brought criminal charges against a number of Russian military officers for conspiring to hack into computers in the United States for purposes of influencing the election. But as noted above, the Special Counsel did not find that the Trump campaign, or anyone associated with it, conspired or coordinated with the Russian government in these efforts, despite multiple offers from Russian-affiliated individuals to assist the Trump campaign.

Of course, that leaves off coordinating with WikiLeaks because WikiLeaks is not the Russian government, even while in context it would be included.

Similarly, in Barr's "no collusion" press conference, he again emphasized that Trump's people were not involved in the hacking. Then he made a remarkable rhetorical move [I've numbered the key sentences].

But again, the Special Counsel's report did not find any evidence that members of the Trump campaign or anyone associated with the campaign conspired or coordinated with the Russian government in its hacking operations. In other words, there was no evidence of Trump campaign "collusion" with the Russian government's hacking.

The Special Counsel's investigation also examined Russian efforts to publish stolen emails and documents on the internet. The Special Counsel found that, after the GRU disseminated some of the stolen materials through its own

controlled entities, DCLeaks and Guccifer 2.0, the GRU transferred some of the stolen materials to Wikileaks for publication. Wikileaks then made a series of document dumps. [1] The Special Counsel also investigated whether any member or affiliate of the Trump campaign encouraged or otherwise played a role in these dissemination efforts. [2] Under applicable law, publication of these types of materials would not be criminal unless the publisher also participated in the underlying hacking conspiracy. [3] Here too, the Special Counsel's report did not find that any person associated with the Trump campaign illegally participated in the dissemination of the materials.

Given what we know to be in the report, those three sentences look like this:

1. Mueller asked, did any Trump affiliate encourage or otherwise play a role in WikiLeaks' dissemination?
2. By the way, if a Trump affiliate *had* played a role in the dissemination it wouldn't be illegal unless the Trump affiliate had also helped Russia do the hacking.
3. After finding that a Trump affiliate *had* played a role in the dissemination, Mueller then determined that that role was not illegal.

Again, "collusion" is not a legal term. It describes coordination – legal or not – in

sordid activities. What these three sentences would say, if Barr had been honest, is that Mueller did find coordination, but because Stone (via yet unidentified means) coordinated with WikiLeaks, not Russia itself, Mueller didn't find that the coordination was illegal.

Note that even Bill Barr, who's a pretty shameless hack, still qualified the "no collusion" judgment on which he presents his obstruction analysis as pertaining to Russia.

After finding no underlying collusion with Russia, the Special Counsel's report goes on to consider whether certain actions of the President could amount to obstruction of the Special Counsel's investigation. As I addressed in my March 24th letter, the Special Counsel did not make a traditional prosecutorial judgment regarding this allegation. Instead, the report recounts ten episodes involving the President and discusses potential legal theories for connecting these actions to elements of an obstruction offense.

After carefully reviewing the facts and legal theories outlined in the report, and in consultation with the Office of Legal Counsel and other Department lawyers, the Deputy Attorney General and I concluded that the evidence developed by the Special Counsel is not sufficient to establish that the President committed an obstruction-of-justice offense.

Barr bases his obstruction analysis on "collusion," not conspiracy. But his 1-2-3 gimmick above lays out that non-criminal "collusion" did happen, only that it happened with WikiLeaks.

For his part, Mueller points to those same passages that get redacted in the first discussion in his background discussion for the

obstruction volume.

Within the Trump Campaign, aides reacted with enthusiasm to reports of the hacks.²³ Harm to Ongoing Matter discussed with Campaign officials that WikiLeaks would release the hacked material.²⁴ Some witnesses said that Trump himself discussed the possibility of upcoming releases HOM. Michael Cohen, then-executive vice president of the Trump Organization and special counsel to Trump, recalled hearing Harm to Ongoing Matter.²⁵ Cohen recalled that Trump responded, “oh good, alright,”

and Harm to Ongoing Matter.²⁶ Manafort said that shortly after WikiLeaks’s July 22, 2016 release of hacked documents, he spoke to Trump Harm to Ongoing Matter; Manafort recalled that Trump responded that Manafort should HOM keep Trump updated.²⁷ Deputy campaign manager Rick Gates said that Manafort was getting pressure about HOM information and that Manafort instructed Gates HOM status updates on upcoming releases.²⁸ Around the same time, Gates was with Trump on a trip to an airport HOM, and shortly after the call ended, Trump told Gates that more releases of damaging information would be coming.²⁹ Harm to Ongoing Matter were discussed within the Campaign,³⁰ and in the summer of 2016, the Campaign was planning a communications strategy based on the possible release of Clinton emails by WikiLeaks.³¹

Importantly, the redaction in this footnote makes it clear that the campaign was relying on what they were learning from Stone to plan their communication strategy for upcoming releases.

³¹ Gates 4/11/18 302, at 1-2 (SM-2180998); Gates 10/25/18 302, at 2 (messaging strategy was being formed in June/July timeframe based on claims by Assange on June 12, 2016, Harm to Ongoing Matter).

Remember, in his charging decisions on campaign finance, Mueller *didn't* actually say no crime had been committed. He said the evidence was not sufficient to obtain and sustain a criminal conviction.

The Office similarly determined that the contacts between Campaign officials and Russia-linked individuals either did not involve the commission of a federal crime or, in the case of campaign-finance offenses, that our evidence was not sufficient to obtain and sustain a criminal conviction.

There are multiple places where the report makes it clear that, in addition to the June 9 meeting, the campaign finance crimes reviewed included the WikiLeaks releases, including the Table of Contents.

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Indeed, the paragraph describing why Trump may have wanted to fire Jim Comey focuses closely on the campaign's response to the WikiLeaks releases.

In addition, the President had a motive to put the FBI's Russia investigation behind him. The evidence does not establish that the termination of Comey was designed to cover up a conspiracy between the Trump Campaign and Russia: As described in Volume I, the evidence uncovered in the investigation did not establish that the President or those close to him were involved in the charged Russian computer-hacking or active-measure conspiracies, or that the President otherwise had an unlawful relationship with any Russian official. But the evidence does indicate that a thorough FBI investigation would uncover facts about the campaign and the President personally that the President could have understood to be crimes or that would give rise to personal and political concerns. Although the President publicly stated during and after the election that he had no connection to Russia, the Trump Organization, through Michael Cohen, was pursuing the proposed Trump Tower Moscow project through June 2016 and candidate Trump was repeatedly briefed on the progress of those efforts.⁴⁹⁸ In addition, some witnesses said that Trump was aware that [redacted] at a time when public reports stated that Russian intelligence officials were behind the hacks, and that Trump privately sought information about future WikiLeaks releases.⁴⁹⁹ More broadly, multiple witnesses described the President's preoccupation with press coverage of the Russia investigation and his persistent concern that it raised questions about the legitimacy of his election.⁵⁰⁰ [my emphasis]

And a more general discussion of Trump's motives later in the obstruction discussion raises it – and the possibility that it would be judged to be criminal – explicitly.

In this investigation, the evidence does not establish that the President was involved in an underlying crime related to Russian election interference. But the evidence does point to a range of other possible personal motives animating the President's conduct. These include concerns that continued investigation would call into question the legitimacy of his election and potential uncertainty about whether certain events—such as advance notice of WikiLeaks's release of hacked information or the June 9, 2016 meeting between senior campaign officials and Russians—could be seen as criminal activity by the President, his campaign, or his family. [my emphasis]

The most damning revelations about the President's own actions during the campaign in this report pertain to his exploitation of the WikiLeaks releases. They go directly to the question of criminal liability (which Mueller says he couldn't charge for evidentiary reasons, not because he didn't think it was a crime), and if you want to talk "collusion" as opposed to "conspiracy" – as the President does – it goes to "collusion."

And in the guise of protecting Roger Stone's right to a fair trial – and possibly with an eye towards preserving the President's ability to pardon Stone before a trial reveals even more of these details – DOJ used a heavy hand on the redactions pertaining to Trump's own personal involvement in exploiting the benefit his campaign received from WikiLeaks releasing emails that Russia stole from Hillary. These details are the bulk of what DOJ is hiding by offering just a small number of members of Congress to review the less-redacted version of

the report.

Perhaps Mueller agreed with all these redactions; it's a question I hope he gets asked when he finally testifies. But the redactions serve to hide what was clearly a close call on prosecution and one of the most damning explanations for Trump's obstruction, an explanation that involved his own actions on the campaign.

As I disclosed last July, I provided information to the FBI on issues related to the Mueller investigation, so I'm going to include disclosure statements on Mueller investigation posts from here on out. I will include the disclosure whether or not the stuff I shared with the FBI pertains to the subject of the post.