

SSCI CONFIRMS THAT MUELLER CONSIDERED CFAA CHARGES FOR DON JR.

One of the most useful things about the SSCI Report is how much content from the interviews and redacted portions of the Mueller Report it made public.

I'll have several follow-ups talking about what it shows (beyond that DOJ is badly abusing the FOIA process to suppress damaging information) and what the difference choices about story-lines say about the investigation into Trump.

But for now, this disclosure is predictable, but important. Mueller considered CFAA charges for Don Jr's use of a password obtained from WikiLeaks to access a non-public website.

WikiLeaks contacted the Trump Campaign directly, through Donald Trump Jr., on several occasions. On September 21, WikiLeaks used a direct message on Twitter to reach out to Trump Jr. for a comment about a website, "putintrump.org," and provided Trump Jr. a password to access the website before it launched.¹⁷²⁵ Trump Jr. responded, "Off the record I don't know who that is, but I'll ask around."¹⁷²⁶ He then forwarded the message to senior Campaign officials in an email, and asked for their thoughts, indicating that he had visited the website:

Guys I got a weird Twitter DM from wikileaks. See below. I tried the password and it works and the about section they reference contains the next pie in terms of who is behind it. Not sure if this is anything but it seems like it's really wikileaks asking me as /follow them

and it is a DM Do you know the people mentioned and what the conspiracy they are looking for could be? These are just screen shots but it's a fully built out page claiming to be a PAC let me know your thoughts and if we want to look into it. 1727

Trump Jr. expressed concern about the webpage, though not about WikiLeaks itself: "The way they asked the question it almost seemed like there was some connection we should be aware of though. Do any of the political people recognize the names there?"¹⁷²⁸ Some members of the Campaign responded to Trump Jr., but he did not communicate further with WikiLeaks on the topic. ¹⁷²⁹

(U) Email, Trump Jr. to Conway, Bannon, Kushner, Bossie, and Parscale, September 21, 2016 (DJTFP00023909-23911) (attaching screenshots of Twitter direct message from WikiLeaks). The email garnered some responses. Brad Parscale suggested setting up a competing website so that "searches come to us." Email, Parscale to Trump Jr. et al., September 21, 2016 (DJTFP00023912). Jared Kushner forwarded the email to Hope Hicks without comment. Email, Kushner to Hicks, September 21, 2016 (DJTFP00023916-23918). The SCO declined to charge Trump Jr. for violating the Computer Fraud and Abuse Act based on his unauthorized use of the password to access the website. See SCO Report, Vol. I, p. 179.

Let me be clear: It would have been a gross abuse of the CFAA to charge this, the kind of thing DOJ has tried in rare instances, to be rightly rebuked in legal commentary. Mueller made the right decision not to charge this.

But, as SSCI's success at releasing this

information makes clear, there's no reason to redact this information (or other information discussing the various criminal theories used with the failson). Don Jr is not – as Billy Barr claimed when he described his privacy redactions – in any way a tangential third party to his father's campaign. And the underlying conduct here has long been public. There's no reason to hide the discussion of why Mueller (correctly) decided not to charge this conduct.