

THE [THUS FAR] MISSING SETH DUCHARME EMAILS PERTAINING TO RUDY GIULIANI'S RUSSIAN DISINFORMATION

As I've been harping of late, Billy Barr and Jeffrey Rosen went to great lengths to protect Rudy Giuliani's efforts to obtain and disseminate what the Intelligence Community already knew was Russian-backed disinformation laundered through Andrii Derkach. That effort included the following:

- For whatever reason, not warning Rudy that the Intelligence Community knew Russia was targeting him for an information operation before he traveled to his December 2019 meeting with Derkach
- Prohibiting SDNY from expanding its existing investigation into Rudy's foreign influence peddling to include his efforts with Derkach by making EDNY a gate-keeper for any such decisions
- Asking Pittsburgh USA Attorney Scott Brady to accept the information that the IC already knew was Russian disinformation from

Rudy

- Doing nothing while Rudy continued to share information the IC already knew was Russian disinformation during an election
- After belatedly opening an investigation into the Derkach effort that the IC had known was Russian disinformation for a year, opening it at EDNY and scoping it to ensure that Rudy's own actions would not be a subject of the investigation

As a result of this remarkable effort, led by the Attorney General and Deputy Attorney General, to protect Russian disinformation, DOJ willingly ingested a bunch of Russian disinformation and used it to conduct an investigation into the son of the President's opponent.

Last year, when it was disclosed that Barr had directed Brady to willingly accept this Russian disinformation, American Oversight FOIAed and then sued for the paper trail of the effort, submitted as four separate FOIAs:

1. [To OIP and USAPAW] "Brady Order and Written Approval" – which specifically asked for "two readily-identifiable, specific documents" – described as:
 - The written approval of the Attorney

General or Deputy
Attorney General
authorizing U.S.
Attorney for the
Western District of
Pennsylvania (USAPAW)
to create and/or
administer a process
for receiving
purported
investigatory
information from Rudy
Giuliani concerning
matters that relate to
former Vice President
Biden

- A copy of the Attorney
General's order
directing USAPAW to
conduct an evaluation,
review, probe,
assessment, "intake
process," preliminary
investigation

2. [To OIP and USAPAW]
"Giuliani Directives,
Guidance, & Communications,"
described as:

- All directives or
guidance provided to
USAPAW regarding an
evaluation, review,
probe, assessment,
"intake process,"
preliminary
investigation, or
other investigation of

any information received from Rudy Giuliani, including information that may concern former Vice President Biden

- All records reflecting communications between (1) the Office of the Attorney General or the Office of the Deputy Attorney General and (2) USAPAW regarding an evaluation, review, probe, assessment, preliminary investigation, or other investigation of any information received from Rudy Giuliani
- All records reflecting communications within the OAG or the ODAG regarding any evaluation, review, probe, assessment, "intake process," preliminary investigation, or other investigation of any information received from Rudy Giuliani, including information which may concern former Vice

President Biden

3. [To USAPAW] "Brady-Giuliani Communications," described as all records reflecting communications between (1) USAPAW in the course of any evaluation, review, probe, assessment, "intake process," preliminary investigation, or other investigation of any information received from Rudy Giuliani and (2) Rudy Giuliani, or any of Mr. Giuliani's personal assistants or others communicating on his behalf, including but not limited to Jo Ann Zafonte, Christianne Allen, or Beau Wagner
4. [To USAPAW] "Brady-White House Communications," described as any communications between (1) USAPAW in the course of any evaluation, review, probe, assessment, "intake process," preliminary investigation, or other investigation of any information received from Rudy Giuliani and (2) anyone at the White House Office

Before American Oversight filed the lawsuit, the Trump Admin did two things that will have an effect on what we're seeing. First, DOJ combined requests one and two above; as we'll see, that

had the effect of hiding that Barr didn't put anything in writing. In addition, USAPAW told American Oversight that they were going to refer the request for such an order to Main Justice for referral.

While the lawsuit was filed under the Trump Administration, the substantive response to it started in February. The FOIA is a way to understand more about this effort – both how willing Barr's DOJ was to put this scheme in writing, as well as the volume of paper trail that it generated.

The first status report, submitted on February 22, revealed the following based on an initial search:

1. "Brady Order and Written Approval" and "Giuliani Directives, Guidance, & Communications" (aggregated) at Main DOJ: 8,851 items
2. "Giuliani Directives, Guidance, & Communications" and "Brady-Giuliani Communications" at USAPAW: 1,400 pages
3. "Brady-White House Communications:" none

The second status report, submitted on April 1, reported that of the initial search, the following was deemed potentially responsive:

1. "Brady Order and Written Approval" and "Giuliani Directives, Guidance, & Communications" (aggregated) at Main DOJ: 30 pages referred
2. "Giuliani Directives, Guidance, & Communications"

and “Brady-Giuliani Communications” at USAPAW, of 272 pages reviewed so far:

- 3 pages released in full
- 189 pages referred to other agencies for consultation
- 83 duplicates or non-responsive

Here is the USAPAW production.

The third status report, submitted on May 3, reported the following:

1. “Brady Order and Written Approval” and “Giuliani Directives, Guidance, & Communications” (aggregated) at Main DOJ:

- 18 pages released in partly redacted form
- 4 pages withheld entirely under b5 deliberative exemption
- 6 pages awaiting a response from some other component

2. “Giuliani Directives, Guidance, & Communications” and “Brady-Giuliani Communications” at USAPAW, of 263 pages reviewed this month:

- 5 pages released, 3 of which include b6, b7A and b7C redactions

- 14 pages referred to another component
- 244 pages non-responsive or duplicates

Here is the USAPAW production and here is the Main DOJ production.

Here's what has currently been provided to American Oversight (go here for live links).

Bill Barr's Russian disinformation project

	USAPAW	OIP
January 3, 2020	Brady response to DuCharme	Brady response to DuCharme [printed from Brady's account]
January 24, 2020	USAPAW to Brady and Kaufman: Costello said next Wednesday will work in DC	
February 9, 2020		Boyd alerts Kupec to Graham's comments
February 9, 2020, 12:28PM		Kupec forwards "Bill Ahern" Graham transcript
February 10, 2020, 8:30AM		Kupec forwards her forwarding transcript to Barr to Rabbitt and Boyd
February 10, 2020, 9:19AM		Thread involving Boyd, Rabbitt, and Kupec ends
February 11, 2020, 9:40AM	Brady to DuCharme: Seth do you have a few minutes to catch up?	
February 14, 2020, 12:43PM		Greer sends draft response to Nadler to Rabbitt and Boyd
February 14, 2020,		Greer sends draft response to Nadler to Hovakimian cc Boyd
February 27, 2020, 8:06AM	USAPAW, including Brady, Kaufman, and Karoll: We should meet this morning	
March 5, 2020, 2:39PM	Brady to DuCharme: Seth, do you have 5 minutes to talk today?	
March 10, 2020, 3:00PM	Tentative scheduling of 15 minute meeting with Brady	Tentative scheduling of 15 minute meeting with Brady

Note, this may be clarified in upcoming dumps, but for now, there appears to be something very irregular with the OIP response. At first, DOJ said there were up to 8,851 items that were responsive to American Oversight's request. But with the next status report, DOJ said there were just 30 pages. The most recent release claimed to account for 28 of those 30 pages.

In the second joint status report, OIP stated that it had completed its search and its initial responsiveness and deduplication review of potentially responsive documents and identified approximately 30 pages of material likely responsive to Plaintiff's request. See ECF No.7, ¶ 2. OIP further stated that it had sent these records out for consultation pursuant to the Department's regulations, 28 C.F.R. § 16.4(d), and expected to be able to

provide its first response to Plaintiff on or around April 29, 2021. Id. On April 29, 2021, OIP made its first interim response. It released 18 pages in part with portions redacted pursuant to Exemptions 5 and/or 6 and withheld four pages in full pursuant to Exemption 5. OIP is awaiting responses from other components on the remaining six pages.

The math looks like this:

18 pages released
4 pages withheld under b5 exemption*
6 pages referred to another component
Total: 28 pages
Remaining: 2 pages

That's a problem because there are at least two pages of emails that were part of the USAPAW response that *must* have had a counterpart at DOJ, as well as one missing from both (though USAPAW has 1000 pages to release):

- A January 3, 2020 email from Seth DuCharme to Scott Brady asking, "Scott do you have time for a quick call today in re a possible discreet assignment from OAG and ODAG?" (Brady's response, which includes DuCharme's original, is included in both, but the copy released by OIP was printed out from Brady's account, not DuCharme's).
- A February 11, 2020 email from Brady to DuCharme,

asking "Seth, do you have a few minutes to catch up today?" The email should exist in both accounts, and should be included in both OIP and USAPAW's response.

- A March 5, 2020 email from Brady to DuCharme, asking "Seth: do you have 5 minutes to talk today?"

Brady resigned effective February 26 and DuCharme resigned effective March 19. At the time he resigned, DuCharme was supervising an investigation into this Derkach stuff, one that excluded Rudy as a subject.

I assume this will become more clear with further releases (indeed, American Oversight may have the next installment already). Perhaps there's a sound explanation. But thus far, it looks like only the Brady side of exchanges between him and DuCharme have been provided in response.

* The response letter to Jerry Nadler was two pages long, and the draft was sent twice (or there were two drafts), so those probably account for the 4 pages withheld on b5 exemptions.