

ON EDNY'S ONGOING INVESTIGATION INTO TOM BARRACK AND HIS NOT-YET INDICTED CO-CONSPIRATORS

In a status hearing on March 21, prosecutors in the Tom Barrack case responded to a question Barrack had posed the day earlier – whether they planned to supersede his indictment – by saying they reserve the right to do so and that it might happen in June.

In a response to Barrack's claims of discovery hold-ups yesterday, they elaborated on an ongoing investigation into Barrack – and "several" people identified as co-conspirators in the indictment but not yet charged.

The government has made several requests for materials from other executive components of the federal government, and upon receipt of these materials, will promptly disclose any additional items that are discoverable.

Additionally, the investigation related to this case is ongoing (we note that one of the charged defendants is a fugitive and the indictment alleges conduct by several unindicted co-conspirators).

There's at least one person (probably three) whose prior interviews with the FBI are described, but whose names are redacted.

On October 26, 2021, it advised the defendants of statements made by [redacted] during prior interviews with FBI special agents. The government made similar disclosures about statements by [redacted]. These disclosures were made on December 22, 2021, January 14, 2022,

January 27, 2022, March 9, 2022 and April 5, 2022.

Defense counsel further requested the underlying notes and FD-302 reports related to the interviews of [redacted] whose discoverable information was previously disclosed to the defense.

It describes that DOJ obtained a good deal of new evidence in the last three months.

By early January 2022, less than six months since indictment, the government substantially completed the disclosure of discoverable material that was currently in its possession. The government has turned over additional material since that time—approximately 80,000 more files—but, with the exception of fewer than 20 files, all of that material came into the government’s possession after January 3, 2022

It describes evidence that, Barrack is sure, would be at Department of Commerce, State, and the White House.

The defendants note that the government “initially took the position that it had no obligation to search for discoverable materials from [other] federal agencies.” See Mot. at 3, 21. The government took and continues to take such a position, because it is legally correct. The defendants argue that the government has a legal obligation to obtain and review materials from other agencies³ because “this is a national security case” and Barrack has had contact with a number of different parts of the federal government. But a case’s status as “a national security case” is not a basis under any existing precedent to impute a duty to obtain and disclose materials held by other agencies.

3 The defendant fails to specify which agencies the prosecution team purportedly has a duty to search, other than to identify “the White House, State Department, Commerce Department and federal intelligence agencies” as examples that a duty to search should be “included but not limited to.” See Mot. at 22.

Even though the government doesn’t think they have to provide everything from those agencies and the White House, *they are getting Trump White House documents from the Archives.*

Accordingly, the government has requested White House materials from the National Archives and Records Administration and has also requested materials from the U.S. Department of State, U.S. Department of Treasury, U.S. Department of Energy, and U.S. Department of Commerce.⁵

5 As previously discussed, the prosecution team recently received and produced to defense counsel the responsive documents obtained from the U.S. Department of Commerce.

It describes that just because others received similar requests from the Emirates during the Transition or their time in the Administration as Barrack did, it does not make him less guilty.

Similarly, the defendants request information showing that the taskings Barrack carried out for the UAE “are common requests and were made to other members of the transition or administration.” Id. at 9 ¶ 12. This too is an argument, not an actual discovery request, and an irrelevant argument at that. Whether or not other individuals agreed to act at the direction or

control of the UAE, or also met with U.S. officials on behalf of the UAE, does not make Barrack more or less guilty in agreeing to act as an unlawful agent of a foreign government.

In other words, since indicting Barrack, DOJ has continued the investigation, including by using materials that have become available since Trump left the White House.

Most of the people described as co-conspirators are Emiratis that the government wouldn't risk charging.

But Trump officials are named too. Some of the people described in the indictment – most notably Paul Manafort, who recently found himself unable to fly to Dubai because his passport had been revoked – did things on which a 5-year statute of limitations has expired (though there's a Barrack-related action Manafort took in 2017 that is not yet time-barred).

But that's not true of the actions of Steve Bannon described in the indictment. The indictment describes this meeting US Person 1 had with MbZ.

On or about September 13, 2017, the defendant MATTHEW GRIMES sent a text message to the defendant RASHID SULTAN RASHID AL MALIK ALSHAHHI stating, "Heads up, [Emirati Official 1] is meeting with [a former United States government official ("U.S. Person 1), an individual whose identity is known to the Grand Jury on Friday. Please keep super confidential." GRIMES further advised ALSHAHHI that the defendant THOMAS JOSEPH BARRACK and GRIMES "worked hard to show [U.S Person 1] how strong of allies we are. Very hard... [BARRACK] spent lots of time." AL SHAHHI then confirmed with GRIMES that U.S. Person 1 "was briefed by [BARRACK] a lot on

[Emirati Official 1]and his vision.”
GRIMES added that BARRACK “worked hard to show our friendship and alliance,” and that BARRACK had met with U.S. Person I many times in the past several weeks [about this meeting” with Emirati Official 1, in which BARRACK was “[c]hampioning [the] UAE.”

Here’s a contemporaneous report of that meeting.

On Monday, Bannon is scheduled to speak at a day-long conference in Washington organized by the Hudson Institute, a conservative think tank and paid for by multiple donors, entitled “Countering Violent Extremism: Qatar, Iran, and the Muslim Brotherhood.” The speech follows Bannon’s September meeting in the UAE with its crown prince, Sheikh Mohammed bin Zayed al-Nahyan. The two weren’t strangers: Bannon, Trump’s son-in-law Jared Kushner and ousted National Security Adviser Michael Flynn met with the crown prince at Trump Tower during the presidential transition in December. That meeting triggered controversy, as the UAE hadn’t notified the outgoing Obama administration about the visit as is customary.

The report goes on to report on Bannon’s sustained media campaign – the kind of thing you see in Foreign Agent indictments – attacking Emirate rival, Qatar.

Bannon, who through a spokesman declined to comment for this story, has said little publicly about Qatar. But Breitbart News, the far-right website he ran before going into the White House and where he is now once again ensconced, published more than 80 Qatar-related headlines since the blockade began, most of which were critical of the nation.

“Jihad-Friendly Qatar May Have Inspired Former Gitmo Detainees to Return to Terror,” declared a June 15 headline.

Another, 10 days later, read “Report: Qatari Ruling Family Importing Hezbollah Fighters for Protection.”

Bannon has said he is planning to start a global conference series through Breitbart. “We are in advance discussions about having Breitbart sponsor a major security conference in sub-Saharan Africa, the Persian Gulf, central Europe, and East Asia, in early to mid-2018,” he told Bloomberg recently.

This kind of media campaign is the stuff that can get you charged as an undisclosed foreign agent.

Bannon’s not the only one referred to as a not-yet charged co-conspirator. But he is clearly one of them.