

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

MICHAEL T. FLYNN,

Defendant.

Criminal Action No. 17-232-EGS

**SECOND SUPPLEMENT TO MOTION TO DISMISS
FOR EGREGIOUS GOVERNMENT MISCONDUCT**

On April 29, 2020, the government produced to the defense a second tranche comprised of eleven pages, including emails and additional Strzok-Page text messages. *See Brady v. Maryland*, 373 U.S. 83 (1963) and this Court’s standing order, ECF No. 10. The second production bears Bates labeled as DOJSCO – 700023465 through DOJSCO – 700023475. The government then produced to Mr. Flynn a redacted version of those documents, agreed as suitable for filing upon the public docket (“Redacted Production”). These documents further support Mr. Flynn’s Motion to Dismiss for Egregious Government Misconduct and in the Interest of Justice. ECF No. 162. The Redacted Production is attached in its entirety as Exhibit 1.

Dated: April 30, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2020 a true and genuine copy of this Second Supplement to Motion to Dismiss for Egregious Government Misconduct and in the Interest of Justice was served via electronic mail by the Court's CM/ECF system to all counsel of record, including:

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Respectfully submitted,

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EC for review [REDACTED]

From: [REDACTED]
To: [REDACTED]
Date: Wed, 04 Jan 2017 13:49:46 -0500
Attachments: Closing_Communication.pdf (106.65 kB)

[REDACTED]

=====
TRANSITORY RECORD

[REDACTED]
<<.,.>>

=====
[REDACTED]

[REDACTED]

FEDERAL BUREAU OF INVESTIGATION
Electronic Communication

Title: [REDACTED] Closing Communication

Date: 01/04/2017

From: WASHINGTON FIELD

Contact: [REDACTED]

Approved By: [REDACTED]

Drafted By: [REDACTED]

Case ID #: [REDACTED]

[REDACTED] CROSSFIRE RAZOR
FOREIGN AGENTS REGISTRATION ACT -
RUSSIA;
SENSITIVE INVESTIGATIVE MATTER

Synopsis: [REDACTED] To document the closing of captioned case.

Details:

[REDACTED] The FBI opened captioned case based on an articulable factual basis that CROSSFIRE RAZOR (CR) may wittingly or unwittingly be involved in activity on behalf of the Russian Federation which may constitute a federal crime or threat to the national security. The FBI predicated the investigation on predetermined criteria set forth by the CROSSFIRE HURRICANE (CH) investigative team based on an assessment of reliable lead information received during the course of the investigation. Specifically, CR was cited as an adviser to then Republican presidential candidate DONALD J. TRUMP for foreign policy issues since February 2016; CR had ties to various state-affiliated entities of the Russian Federation, as reported by open source information; and CR traveled to Russia in December 2015, as reported by open source information. Additionally, CR has an active TS/SCI clearance.

[REDACTED]

[REDACTED]

Title: [REDACTED] Closing Communication
Re: [REDACTED], 01/04/2017

[REDACTED] The goal of the investigation was to determine whether the captioned subject, associated with the Trump campaign, was directed and controlled by and/or coordinated activities with the Russian Federation in a manner which is a threat to the national security and/or possibly a violation of the Foreign Agents Registration Act, 18 U.S.C section 951 *et seq*, or other related statutes.

[REDACTED] Following the initiation of captioned case, the CH Team conducted a check of logical databases for any derogatory information on CROSSFIRE RAZOR. No derogatory information was identified in FBI holdings.

[REDACTED] The FBI requested that [REDACTED] for any derogatory information on CROSSFIRE RAZOR.

[REDACTED]

[REDACTED] The [REDACTED] found no derogatory information in their holdings on CROSSFIRE RAZOR.

[REDACTED] In addition to [REDACTED], the FBI requested that [REDACTED] conduct a search of its holdings for any derogatory information on CROSSFIRE RAZOR. No derogatory information was reported back to the FBI.

[REDACTED] The CH investigative team also addressed this investigation through CHS reporting CROSSFIRE RAZOR for any derogatory or lead information. As such CH contacted an established FBI CHS to query about CR. During the debriefing the CHS relayed an incident s/he witnessed when CROSSFIRE RAZOR (CR) spoke at the [REDACTED] in the [REDACTED]. The CHS was unsure of the date, but noted that CROSSFIRE RAZOR was still in his/her position within the USIC.

[Writer's note: per open source, CR spoke at [REDACTED] on [REDACTED]] The CHS advised that after CR spoke and socialized with members of [REDACTED] at dinner and over drinks, members of [REDACTED] got CR a cab to take CR to the train station to bring [REDACTED]

[REDACTED]

Title: [REDACTED] Closing Communication
Re: [REDACTED] 01/04/2017

him/her to [REDACTED]. The CHS stated that a [REDACTED] surprised everyone and got into CR's cab and joined CR on the train ride to [REDACTED]. The CHS stated that s/he was somewhat suspicious of [REDACTED], as [REDACTED] has been affiliated with several prominent members of [REDACTED]. The CHS believes that [REDACTED] father may be a Russian Oligarch living in [REDACTED]. The CHS could not provide further information on CR and [REDACTED] trip.

[REDACTED] The CH investigative team checked [REDACTED] name through available FBI databases for any derogatory information with negative results. A formal [REDACTED] was submitted to [REDACTED] for any derogatory information. [REDACTED] reported no derogatory information in its holdings.

[REDACTED] Analysis was conducted on known CR travel. This analysis utilized records [REDACTED] as well as [REDACTED] and [REDACTED] records. In addition to historical travel analysis, the FBI initiated surveillance on a certain Russian subject [REDACTED] to determine if there was contact between him and CROSSFIRE RAZOR. No contact between the two individuals was observed by the surveillance teams covering the event.

[REDACTED] In addition to CHS reporting, [REDACTED]

[REDACTED] Following the compilation of the above information, the CH team determined that CROSSFIRE RAZOR was no longer a viable candidate as part of the larger CROSSFIRE HURRICANE umbrella case. A review of logical [REDACTED] databases did not yield any information on which to predicate further investigative efforts. While a CHS provided some information on CR's interaction with [REDACTED] the absence of derogatory information on [REDACTED] limited the investigative value of the information. The writer notes that since CROSSFIRE RAZOR was not specifically named as an agent of a foreign power by the original [REDACTED]

[REDACTED]
Title: [REDACTED] Closing Communication
Re: [REDACTED] 01/04/2017

CROSSFIRE HURRICANE predicated reporting, the absence of any derogatory information or lead information from these logical sources reduced the number of investigative avenues and techniques to pursue. Per the direction of FBI management, CROSSFIRE RAZOR was not interviewed as part of the case closing procedure.

[REDACTED] The FBI is closing this investigation. If new information is identified or reported to the FBI regarding the activities of CROSSFIRE RAZOR, the FBI will consider reopening the investigation if warranted.

◆◆

DRAFT

[REDACTED]

--- [REDACTED]

From: "\"strzok\" <>, \"peter p. \" <ppstrzok [REDACTED]>
To: PRIESTAP <-@->, E. W. <icboone@ [REDACTED]>
Cc: CORSI <-@->, DINA M. <dmcorsi@ [REDACTED]>
Date: Sat, 21 Jan 2017 19:13:31 -0500

[REDACTED]

CROSSFIRE TYPHOON: [REDACTED]

CROSSFIRE RAZOR: Provide a defensive briefing to him about CROSS WIND and [REDACTED]. Beyond that, I am not certain. I think my preference would be to provide him a defensive briefing about [REDACTED], put him on notice, and see what he does with that. If that's not possible, then continue to monitor. We need to discuss what happens if DOJ directs us, or directly tells, VPOTUS or anyone else about the [REDACTED], specifically w/r/t what we do directly with him. I think it will be very difficult not to do some sort of overt step with him, a defensive briefing or interview under light "defensive briefing" pretext, unless WH specifically directs us not to.
CROSS WIND [REDACTED]

CROSSFIRE TYPHOON: [REDACTED]

[REDACTED]

RE: --

From: [REDACTED] >"
To: STRZOK <@>, PETER P. <jcmoffa [REDACTED]>, PAGE <@>, LISA C. <lcpagel [REDACTED]>
Date: Sun, 22 Jan 2017 09:23:06 -0500

[REDACTED]

TYPHOON:

RAZOR: Based on his position, would we usually tell him about Wind and [REDACTED]? I'd be interested in letting that play out a bit before he tells them and the whole thing goes underground. But if we usually tell the WH, then I think we should do what we would normally do. At the very least, I think we need to debrief or interview Razor (unless told not to). I think [REDACTED] will get to him regardless so we should try to frame them in a way we want.

Good with the plan for CROSS WIND and [REDACTED]

-----Original Message-----

From: STRZOK, PETER P. (CD) (FBI)
Sent: Saturday, January 21, 2017 7:30 PM
To: MOFFA, JONATHAN C. (CD) (FBI); [REDACTED] (OGC) (FBI); PAGE, LISA C. (OGC) (FBI)
Subject: FW: -- [REDACTED]

To the Magnificent Three, I of course hope you comment/support/disparage all of this as you see fit.

-----Original Message-----

From: STRZOK, PETER P. (CD) (FBI)
Sent: Saturday, January 21, 2017 7:14 PM
To: PRIESTAP, E. W. (CD) (FBI) <EWPRIESTAP [REDACTED]>; BOONE, JENNIFER C. (CD) (FBI) <JCBOONE [REDACTED]>; MOFFA, JONATHAN C. (CD) (FBI) <JCMOFFA [REDACTED]>
(CD) (FBI)

Cc: CORSI, DIANA M. (CD) (FBI) <DMCORSI [REDACTED]>
Subject: -- [REDACTED]

CROSSFIRE TYPHOON:

[REDACTED]

CROSSFIRE RAZOR: Provide a defensive briefing to him about CROSS WIND and [REDACTED]. Beyond that, I am not certain. I think my preference would be to provide him a defensive briefing about [REDACTED], put him on notice, and see what he does with that. If that's not possible, then continue to monitor. We need to discuss what happens if DOJ directs us, or directly tells, VPOTUS or anyone else about the [REDACTED] specifically w/r/t what we do directly with him. I think it will be very difficult not to do some sort of overt step with him, a defensive briefing or interview under light "defensive briefing" pretext, unless WH specifically directs us not to.

CROSS WIND: [REDACTED]

[REDACTED]

CROSSFIRE TYPHOON: [REDACTED]

[REDACTED]

=====

[REDACTED]

=====

[REDACTED]

=====

[REDACTED]

Corrected Date	Corrected Time	Sender	Recipient	Content/Notes
4-Jan-17	2:11 PM	Strzok	[REDACTED]	Hey if you havent closed [REDACTED] don't do it yet
4-Jan-17	2:12 PM	Strzok	[REDACTED]	Sorry, RAZOR
4-Jan-17	2:14 PM	Strzok	[REDACTED]	Hey if you havent closed RAZOR, don't do so yet
4-Jan-17	2:15 PM	[REDACTED]	Strzok	Okay
4-Jan-17	2:15 PM	Strzok	[REDACTED]	Still open, right?
4-Jan-17	2:15 PM	Strzok	[REDACTED]	And youre case agent? Going to send you [REDACTED] for the file
4-Jan-17	2:15 PM	[REDACTED]	Strzok	I have not closed it, I'll double check to see if [REDACTED] had done it.
4-Jan-17	2:17 PM	[REDACTED]	Strzok	Still open and I'm still listed as the Case Manager (had to double check)
4-Jan-17	2:18 PM	Strzok	[REDACTED]	Rgr. I couldn't raise [REDACTED] earlier. Pls keep it open for now
4-Jan-17	2:17 PM	[REDACTED]	Strzok	Will do
4-Jan-17	2:19 PM	Strzok	Page	Razor still open. :@ but serendipitously good, I guess. You want those chips and oreos?
4-Jan-17	2:19 PM	Page	Strzok	phew.
4-Jan-17	2:20 PM	Page	Strzok	But yeah, that's amazing that he is still open. Good, I guess.
4-Jan-17	2:20 PM	Strzok	Page	Yeah, our utter incompetence actually helps us. 20% of the time, I'm guessing :)
4-Jan-17	2:21 PM	[REDACTED]	Strzok	Anything I can help with?
4-Jan-17	2:21 PM	Strzok	[REDACTED]	Just need to relay to him not to close RAZOR yet. I talked with [REDACTED]
4-Jan-17	2:22 PM	[REDACTED]	Strzok	Oh, OK
4-Jan-17	2:22 PM	[REDACTED]	Strzok	What's up?
4-Jan-17	2:22 PM	Strzok	[REDACTED]	Need to decide what to do with him w/r/t the [REDACTED]
4-Jan-17	2:22 PM	Strzok	[REDACTED]	7th floor involved
4-Jan-17	2:23 PM	[REDACTED]	Strzok	I heard that might be the case yesterday. Did DD send that material over?
4-Jan-17	2:23 PM	[REDACTED]	Strzok	[REDACTED] has been handling RAZOR's closure -- do you want me to reach out to him?

4-Jan-17	2:24 PM	Strzok	[REDACTED]	Yes
4-Jan-17	2:24 PM	[REDACTED]	Strzok	Will do
4-Jan-17	2:24 PM	Strzok	[REDACTED]	Hey don't close RAZOR
4-Jan-17	2:24 PM	Strzok	[REDACTED]	actually, just got him on Lync
4-Jan-17	2:24 PM	Strzok	[REDACTED]	Has he been doing the bulk of the work on him?>
4-Jan-17	2:25 PM	[REDACTED]	Strzok	He's been doing some of the stuff more recently
4-Jan-17	2:25 PM	Strzok	[REDACTED]	Actually, his green bubble just turned yellow, pls do try and reach him
4-Jan-17	2:25 PM	[REDACTED]	Strzok	Will do
4-Jan-17	2:27 PM	[REDACTED]	Strzok	ok
4-Jan-17	2:28 PM	[REDACTED]	Strzok	should I be concerned?
4-Jan-17	2:28 PM	Strzok	[REDACTED]	Possibly. Will know more in a bit
4-Jan-17	2:29 PM	Strzok	[REDACTED]	I'll lync you in 10-15
4-Jan-17	2:29 PM	[REDACTED]	Strzok	ok
4-Jan-17	3:59 PM	[REDACTED]	[REDACTED]	have you seen the latest [REDACTED] ?
4-Jan-17	3:59 PM	[REDACTED]	[REDACTED]	on the yellow side? yes ... [REDACTED]
4-Jan-17	3:59 PM	[REDACTED]	[REDACTED]	to give you a thumb nail i heard pete say, "Andy and [REDACTED] will interview...."
4-Jan-17	3:59 PM	[REDACTED]	[REDACTED]	yep
4-Jan-17	3:59 PM	[REDACTED]	[REDACTED]	lemme get more clarity before i give you more
4-Jan-17	4:00 PM	[REDACTED]	[REDACTED]	[REDACTED] meaning Preistep, correct?
4-Jan-17	4:08 PM	[REDACTED]	[REDACTED]	nope - [REDACTED]
23-Jan-17	6:37 AM	Strzok	Page	We'll see, about Bill. He was pretty adamant about what Andy it said with regard to that. And he mentioned on Saturday that he had several conversations
23-Jan-17	6:37 AM	Strzok	Page	with Andy. Bill sense with it and he wanted to know why we had to go aggressively doing these things, openly. I worry Bill isn't getting the underlying d
23-Jan-17	6:37 AM	Strzok	Page	istinction that I think is clear. But maybe I'm wrong.

24-Jan-17	6:46 AM	Strzok	[REDACTED]	Hi - sorry I missed you yesterday. About to email you questions for Andy to think about in advance of his call with Flynn. I'm sure he's thought of them already, but just in case
24-Jan-17	9:27 AM	Strzok	Page	☹️☹️☹️☹️ Bill just told [REDACTED] and me that he brought up - again, th
24-Jan-17	9:27 AM	Strzok	Page	is time in front of D - [REDACTED]. Didn't know he was going to d
24-Jan-17	9:27 AM	Strzok	Page	o that.
24-Jan-17	9:29 AM	Page	Strzok	Yeah, dd is frustrated. Going into mtg.
24-Jan-17	9:29 AM	Page	Strzok	Don't repeat
24-Jan-17	9:30 AM	Strzok	Page	I won't. Bill said D started going one way and DD cut him off. I'd be frustrated too
10-Feb-17	5:37 PM	Page	Strzok	This document pisses me off.? You didn't even attempt to make this cogent and readable.? This is lazy work on your part.
10-Feb-17	10:10 PM	Strzok	Page	Lisa, you didnt see it before my edits that went into what I sent you. I was 1) trying to completely re-write the thing so as to save [REDACTED] voice and 2) get it out to you for general review and comment in anticipation of needing it soon. I greatly appreciate your time in reviewing and your edits. I incorporated them. Thank you.
10-Feb-17	10:11 PM	Strzok	Page	shoudl say 1) trying to not completely re-write....
10-Feb-17	10:11 PM	Strzok	Page	should
10-Feb-17	10:11 PM	Strzok	Page	f*ck.
10-Feb-17	10:11 PM	Strzok	Page	I did the edits better than I'm IMing

COMMENTS FOR ATTRIBUTION BY SIDNEY POWELL, COUNSEL TO GEN FLYNN, REGARDING SECOND PRODUCTION FROM UNITED STATES ATTORNEY JENSEN'S REVIEW

April 30, 2020

The revelations of corruption by the FBI to intentionally frame Gen Flynn for crimes the FBI manufactured piles on with each new production of documents. Unequivocally, the documents prove the egregious extent to which those involved violated the constitutional rights of the National Security Advisor of the United States of America and a military hero, who put his life on the line for over three decades to preserve those very rights for every American citizen.

1. To be clear, we now know by the production of new text messages between Lisa Page and Peter Strzok that there in fact exists an original 302 document created by SSA 1 from his own notes of the January 24, 2017 ambush interview of Gen Flynn. Further, we know in fact that SSA 1's original 302 document went to Strzok who rewrote it substantially, but tried not to "*completely* re-write it so as to save [redacted] voice" and then was shared by Strzok with a "pissed off" Page who revised it substantively yet again, crafting the narrative to charge Gen Flynn with a crime he did not commit.
2. As repugnant as this conduct is on its face, the travel of this vital document establishes continuously – and until this day – the original FBI agents, the prosecutors, and FBI management's determination to withhold exculpatory evidence required under *Brady*, among other violations of Gen Flynn's civil rights. They withheld it not only to try to convict an innocent man, but to hide their own crimes.
3. Second, the production proves that unadulterated fabrications and outright lies by an FBI CHS (Stefan Halper) were used by the government to target and investigate Gen. Flynn in the Crossfire Hurricane scheme. When their game plan failed, the tactic shifted with the "7th Floor involved."
4. Finally, email messages in this production bolster the now widely known egregious conduct of the FBI in their plot to get Gen. Flynn one way or the other with total disregard for fairness, justice, decency, and the law.

Below are specific quotes and supporting material from this second production.

JANUARY 4, 2017

- The investigation of General Flynn was being closed on Jan. 4, 2017, as revealed in an EC by SSA 1, the second agent assigned to the interview team. (The codename used for General Flynn was CROSSFIRE RAZOR.)
- That is, until Strzok suddenly texted SSA 1: "hey, if you haven't closed [RAZOR], don't do so yet." Surprised that "serendipitously," the file was still open, Page texts Strzok: "But

yeah, that's amazing he is still open. Good I guess." Strzok replies: "Yeah, our utter incompetence actually helps us."

- Strzok texts to [redacted]: "Need to decide what to do with him w/r/t [redacted]." "7th Floor involved."
- According to the closing EC, the goal was to determine if General Flynn "was directed and controlled by and/or coordinated activities with the Russian Federation in a manner which was a threat to the national security."
- NO DEROGATORY info on him in FBI files.
- NO DEROGATORY info on him in [redacted: likely DIA] files.
- NO DEROGATORY information on him in [redacted: likely CIA} files.
- So, they find a CHS [confidential human source] who seems to be the lovely and ubiquitous Stephan Halper. What follows then [reading between redactions and with knowledge of the players] is a recitation of lies from Halper about Flynn being at the infamous dinner in London when Ms. Lokhova—a British historian of Russian descent—was also present. This was while Flynn was head of DIA for Obama, and it's the Halper smear machine at work through Colonel James Baker in the DOJ ONA who was paying Halper a lot of money through a slush fund to crank out lies like this. In truth, Halper wasn't at the dinner—which was attended by about 20 members of the DIA, MI6, MI5, etc, and there was nothing of concern to anyone. Everyone had been vetted by our DIA and others.
- The FBI then "initiated surveillance on a certain Russian subject," and there was "no contact" between that person and General Flynn.
- The FBI "determined that CROSSFIRE RAZOR was no longer a viable candidate as part of the larger CROSSFIRE HURRICANE umbrella case."
- "CROSSFIRE RAZOR was not specifically named as an agent of a foreign power by the original CROSSFIRE HURRICANE predicate reporting."
- There was not even a reason to interview him because of "the absence of any derogatory information" or "any lead information from these logical sources."
- **ALL of the above was in the report of JANUARY 4, 2017, closing the case on FLYNN. But that same day, January 4, Strzok texted [redacted] and asked him/her to keep the case open!**
- As Strzok moved as quickly as he could to hold the Flynn file open, he received a text from [redacted]: "Should I be concerned?" Strzok replied: "Possibly. Will know more in a bit. I'll lync you in 10-15."
- An hour and a half later, SSA 1 texted the same redacted colleague: "Have you seen the latest [redacted]?" [Redacted] replied, "On the yellow side? Yes...[redacted.]" SSA 1 shot back quickly: "to give you a thumb nail i heard pete say, "Andy and [redacted] will interview...". "Lemme get more clarity before I give you more." The redacted colleague

asked for clarification: “[Redacted] meaning Priestap, correct?” SSA 1 replied, “nope— [redacted colleague].”

JANUARY 21-23, 2017

- January 21, 2017, Strzok emailed Bill Priestap, Dina Corsi and other FBI officials whose names are redacted. The email discussed using a defensive briefing as a pretext to access Flynn.
- Jan 22, 2017 email chain: [Redacted FBI official] advising team Strzok, Moffa and Page, that “if we usually tell the WH, then I think we should do what we would normally do. At the very least, I think we need to debrief or interview Razor (unless told not to). I think [redacted] will get to him regardless, so we should try to frame them in a way we want.”
- “We need to discuss what happens if DOJ directs us, or directly tells, VPOTUS or anyone else about the [redacted] specifically w/r/t what we do directly with him. I think it will be very difficult not to do some sort of overt step with him, a defensive briefing or interview under light ‘defensive briefing’ pretext, unless WH specifically directs us not to.”
- On January 23, 2017, Strzok texted Page: “We’ll see about Bill. He was pretty adamant about what Andy it [sic] said with regard to that. And he mentioned on Saturday that he had several conversations with Andy. Bill sense with it [sic] and he wanted to know why we had to go aggressively doing these things, openly.”

JANUARY 24, 2017

- In the morning on January 24, 2017, Strzok texted [redacted] saying: “About to email you questions for Andy [McCabe] to think about in advance of his call with Flynn. I’m sure he’s thought of them already, but just in case.” [This email was in yesterday’s filing.]
- Later that same morning, Strzok texted Page: “Bill just told [redacted] and me that he brought up – again this time in front of D – [redacted, but certainly Comey]. Didn’t know he was going to do that.” Page replied: “Yeah. dd is frustrated. Going into mtg. Do not repeat.” Strzok assured her: “I won’t. Bill said D started going one way and DD cut him off. I’d be frustrated too.”
- In the early and late evening of February 10, 2017, an irritated Page texted Peter Strzok complaining: “This document pisses me off. You didn’t even attempt to make this cogent and readable.? This is lazy work on your part.” The two were editing the Flynn 302 that was shortly to be entered as Final—once McCabe approved it.
- Strzok replied to Page assuring her he’d put plenty of work into the document: “Lisa you didn’t see it before my edits that went into what I sent you. I was 1) trying to completely re-write the thing so as to save [SSA 1]’s voice and 2) get it out to you for general review and comment in anticipation of needing it soon. I greatly appreciate your time in

reviewing and your edits I incorporated them. Thank you.” Strzok then corrected his first statement, texting: “should say 1) trying to not completely rewrite...”