

Nos. 17-2231(L), 17-2232, 17-2233, 17-2240 (Consolidated)

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

INTERNATIONAL REFUGEE ASSISTANCE PROJECT, *et al.*,
Plaintiffs-Appellees,

IRANIAN ALLIANCES ACROSS BORDERS, *et al.*,
Plaintiffs-Appellees,

EBLAL ZAKZOK, *et al.*,
Plaintiffs-Appellees,

v.

DONALD J. TRUMP, *et al.*,
Defendants-Appellants.

On Appeal from the United States District Court
for the District of Maryland, Southern Division
(8:17-cv-00361-TDC)

**PLAINTIFFS-APPELLEES' MOTION FOR JUDICIAL NOTICE
AND TO SUPPLEMENT THE RECORD**

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1. Plaintiffs file this motion to request (1) that the Court take judicial notice of, and supplement the appellate record to add evidence of, recent official statements and actions of the President, and (2) that the appellate record be supplemented to add four press articles discussed in the parties' briefs.¹

Legal Standard

2. This Court “may judicially notice a fact that is not subject to reasonable dispute because it . . . can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2); *Martin v. Duffy*, 858 F.3d 239, 253 n.4 (4th Cir. 2017).

3. This Court also “has the power, either on motion or of its own accord, to require that the record be corrected or supplemented.” Loc. R. 10(d). An appellate court may supplement the record where new evidence informs the “appropriateness of injunctive relief,” *In re Application of Adan*, 437 F.3d 381, 398 n.3 (3d Cir. 2006) (citing *Goland v. Cent. Intelligence Agency*, 607 F.2d 339, 370 n.7 (D.C. Cir.1978)), and where “remanding the case to the district court for consideration of the additional material would be contrary to the interests of justice and the efficient use of judicial resources,” *Acumed LLC v. Advanced Surgical Servs.*, 561 F.3d 199, 226 (3d Cir. 2009).

¹ Counsel for all parties have been informed of the intended filing of this motion. All Plaintiffs consent to the granting of this motion. Defendants do not consent, but have not indicated whether they intend to file a response in opposition.

Argument

4. On November 29, 2017, the President used his Twitter account to publish to his more than 43 million followers three videos from the account of Jayda Fransen, the Deputy Leader of Britain First, an extremist political party in the United Kingdom, the mission of which includes opposition to Islam.²

5. Each of the three videos distributed by the President depicts an act of violence or the destruction of a Christian religious symbol coupled with a caption attributing the actions depicted to a “Muslim” or “Islamist.” In at least one case, the claim is demonstrably false, and in the rest remains unverified. The first video is captioned “Muslim migrant beats up Dutch boy on crutches!”³ It does not in fact depict a Muslim migrant.⁴ The second

² *Principles of the Britain First Movement*, Britain First, <https://www.britainfirst.org/principles> (last visited Dec. 4, 2017) (Herzog Decl. Ex. E).

³ Jayda Fransen (@JaydaBF), Twitter (Nov. 28, 2017, 12:40 PM), <https://twitter.com/JaydaBF/status/935609305574903812> (retweeted by Donald J. Trump (@realDonaldTrump) (Nov. 29, 2017, 6:37 AM)) (Herzog Decl. Ex. A).

⁴ Peter Baker & Eileen Sullivan, *Trump Shares Inflammatory Anti-Muslim Videos, and Britain’s Leader Condemns Them*, N.Y. Times (Nov. 29, 2017), <https://www.nytimes.com/2017/11/29/us/politics/trump-anti-muslim-videos-jayda-fransen.html> (Herzog Decl. Ex. F).

The Netherlands Embassy also responded to the President and confirmed that the individual in the video was not a migrant: “The perpetrator of the violent act in this video was born and raised in the Netherlands.” Netherlands Embassy (@NLintheUSA), Twitter (Nov. 29, 2017, 11:26 AM), <https://twitter.com/NLintheUSA/status/935953115249086464> (Herzog Decl. Ex. G).

video is captioned “Muslim Destroys a Statue of Virgin Mary!”⁵ The third video is captioned “Islamist mob pushes teenage boy off roof and beats him to death!”⁶

6. The President’s spokesperson subsequently asserted that “security and public safety for the American people . . . are the issues [the President] was raising with [those] tweets,” that “[t]he President has been talking about these security issues for years now, from the campaign trail to the White House,” and that “the President has addressed these issues with the travel order that he issued earlier this year and the companion proclamation.”⁷

7. This evidence emerged subsequent to the district court’s injunction. While Plaintiffs’ arguments before this Court remain the same, this new evidence provides further support for those arguments because the President’s statements express hostility towards Muslims and foment

⁵ Jayda Fransen (@JaydaBF), Twitter (Nov. 29, 2017, 1:40 AM) <https://twitter.com/JaydaBF/status/935805606447013888> (retweeted by Donald J. Trump (@realDonaldTrump) (Nov. 29, 2017, 6:43 AM)) (Herzog Decl. Ex. B).

⁶ Jayda Fransen (@JaydaBF), Twitter (Nov. 28, 2017, 11:40 PM), <https://twitter.com/JaydaBF/status/935775552102981633> (retweeted by Donald J. Trump (@realDonaldTrump) (Nov. 29, 2017, 6:44 AM)) (Herzog Decl. Ex. C).

⁷ The White House has published a transcript of these remarks on its official website. *Press Gaggle by Principal Deputy Press Secretary Raj Shah en route St. Louis, MO*, Office of the Press Secretary, The White House (Nov. 29, 2017), <https://www.whitehouse.gov/the-press-office/2017/11/29/press-gaggle-principal-deputy-press-secretary-raj-shah-en-route-st-louis> (Herzog Decl. Ex. D).

conflict between Christians and Muslims in the United States, and his spokesperson's remarks directly link the anti-Muslim statements to the Proclamation itself. *Cf.* Gov't Opening Br. 52, Gov't Reply 26.

8. Plaintiffs respectfully request that the Court take judicial notice of the President's November 29, 2017 tweets, which are set forth in Exhibits A–C of the Herzog Declaration, as well as the subsequent statements by his spokesperson, which are set forth as Exhibit D of the Herzog Declaration. Plaintiffs additionally move to supplement the record to include these materials.

9. The President's statements cannot reasonably be disputed and the accuracy of the source—the President or his spokesperson—cannot be questioned. The government has conceded that the President's tweets are official statements by the President.⁸ Judicial notice therefore is appropriate. *See* Fed. R. Evid. 201(b)(2); *see Martin v. Duffy*, 858 F.3d 239, 253 n.4 (4th

⁸ J.A. 794, 1006 (statement from then White House Press Secretary Sean Spicer that the President's tweets should be “considered official statements by the President of the United States”); *see also* Government's Nov. 13, 2017 supplemental submission (Dkt. No. 29) in *James Madison Project v. Department of Justice*, No. 1:17-cv-00144-APM (D.D.C.) (“[T]he government is treating the President's statements to which plaintiffs point – whether by tweet, speech or interview – as official statements of the President of the United States”) (Herzog Decl. Ex. H); Letter from Marc T. Short, Assistant to the President for Legislative Affairs, to Rep. K. Michael Conaway & Rep. Adam Schiff (June 23, 2017), *available at* <http://i2.cdn.turner.com/cnn/2017/images/06/23/white.house.letter.pdf> (referring to the President's tweets as “President Trump's June 22, 2017 statement”) (Herzog Decl. Ex. I).

Cir. 2017) (the Court “may properly take judicial notice” of government policy). That is true regardless of whether the facts to be judicially noticed arose following the district court’s decision. *See, e.g., Romine v. Diversified Collection Servs., Inc.*, 155 F.3d 1142, 1146-47 (9th Cir. 1998) (taking judicial notice of an FTC letter that “was not published at the time of briefing and argument before the district court”); *In re Am. Biomaterials Corp.*, 954 F.2d 919, 922 (3d Cir. 1992) (quoting *Landy v. Fed. Deposit Ins. Corp.*, 486 F.2d 139, 151 (3d Cir. 1973), *cert. denied*, 416 U.S. 960 (1974)) (noting that “an appellate court in a proper case” may “take judicial notice of new developments not considered by the lower court”).

10. Plaintiffs also respectfully request that this Court exercise its inherent authority to supplement the record. Appellate courts have the equitable authority to supplement the record. *E.g., Acumed LLC v. Advanced Surgical Servs.*, 561 F.3d 199, 226 (3d Cir. 2009); *United States v. Kennedy*, 225 F.3d 1187, 1192 (10th Cir. 2000); *Ross v. Kemp*, 785 F.2d 1467, 1474 (11th Cir. 1986); *Freedman v. Mendelson*, 197 F.R.D. 276, 279-80 (E.D. Va. 2000) (stating that “federal appellate courts [may] consider matters beyond the record on appeal as a matter of inherent discretion,” including “in the interest of justice”). An appellate court may supplement the record where new evidence informs the “appropriateness of injunctive relief,” *In re Application of Adan*, 437 F.3d 381, 398 n.3 (3d Cir. 2006) (citing *Goland v. Cent. Intelligence Agency*, 607 F.2d 339, 370 n.7 (D.C. Cir.1978)), and where “remanding the case to the district court for consideration of the

additional material would be contrary to the interests of justice and the efficient use of judicial resources,” *Acumed LLC*, 561 F.3d at 226.

11. The present circumstances are precisely those that merit supplementation. The President’s recent statements and those of his spokesperson were not before the district court solely because they were issued while the matter was on appeal before this Court. There is no need for further fact-finding where, as here, the statements by the President and his spokesperson cannot be disputed. Remand to the district court is therefore unnecessary and highly inefficient. Nor could there be any conceivable prejudice to the government, which, having issued these statements, surely received contemporaneous notice of their contents.

12. Plaintiffs additionally request that the Court supplement the record with four news articles that Plaintiffs referenced in their Opening Brief,⁹

⁹ These include: Eric Hananoki, *New DHS Senior Advisor Pushed “Mosque Surveillance Program,” Claimed that Muslims “By-And-Large” Want to Subjugate Non-Muslims*, Media Matters (Mar. 14, 2017), <https://www.mediamatters.org/research/2017/03/14/new-dhs-senior-adviser-pushed-mosque-surveillance-program-claimed-muslims-and-large-want-subjugate/215634> (Herzog Decl. Ex. J); Noah Lanard, *A Fake Jihadist Has Landed a Top Job at Homeland Security*, Mother Jones (Nov. 1, 2017), <http://www.motherjones.com/politics/2017/11/a-fake-jihadist-has-landed-a-top-job-at-homeland-security/> (Herzog Decl. Ex. K); Jonathan Blitzer, *How Stephen Miller Single-Handedly Got the U.S. To Accept Fewer Refugees*, New Yorker (Oct. 13, 2017), <https://www.newyorker.com/news/news-desk/how-stephen-miller-single-handedly-got-the-us-to-accept-fewer-refugees> (Herzog Decl. Ex. L); and Associated Press, *U.S., Cuba Fail to Reach Accord on Immigration* (July 10, 1986), available at http://articles.latimes.com/1986-07-10/news/mn-22586_1_radio-marti. Pfs. Br. 6 nn.2-3, 32 & n.13, 49 n.21 (Herzog Decl. Ex. M).

along with the documents cited herein that provide context for the President's recent statements. These documents are set forth in Exhibits E–M of the Herzog Declaration.

13. While Plaintiffs submit that there is ample record evidence to affirm the district court's order, and that it would not typically be necessary to formally add these articles to the record, the government has noted that they are not in the record—albeit without contesting their accuracy.

14. Plaintiffs therefore respectfully request that the record be supplemented to include these articles in the interest of having all relevant materials in the record. One of the articles, dated October 13, 2017, was published the day before Plaintiffs' reply briefs were filed in the District Court pursuant to an expedited briefing schedule. It was cited in the district court, *see* International Refugee Assistance Project Reply Br. 2 n.4, *International Refugee Assistance Project v. Trump*, No 8:17-cv-00361-TDC (D. Md. Oct. 14, 2017), ECF No. 216, but was not formally added to the record at that time. A second article, dated November 1, 2017, was published after the District Court issued its Opinion and Order on October 17, 2017, J.A. 993, 1084, and as such Plaintiffs did not have the opportunity to provide it to the District Court. A third article, dated March 14, 2017, concerned an individual whose role in overseeing implementation of the Executive Orders did not come to light until November 1, 2017. The final article, dated July 10, 1986, is an Associated Press story describing the suspension of entry of Cuban nationals under President Reagan. The

government has not contested the accuracy of the statements made in any of these articles.

15. Because all of these articles are probative of the questions at issue and may be useful to the Court, the record should be supplemented to include them.

Dated: December 4, 2017

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the type-face requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-volume limitations of Federal Rule of Appellate Procedure 27(d)(2)(A). This motion contains 1,820 words, excluding the parts of the motion excluded by Federal Rules of Appellate Procedure 27(d)(2) and 32(f).

/s/ Robert A. Atkins
Robert A. Atkins

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of December, 2017, I filed the foregoing motion by use of the Fourth Circuit's CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

/s/ Robert A. Atkins

Robert A. Atkins

**UNITED STATES DISTRICT COURT
FOR THE FOURTH CIRCUIT**

INTERNATIONAL REFUGEE
ASSISTANCE PROJECT, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

Civil Action Nos. 17-2231(L), 17-
2232, 17-2233, 17-2240
(Consolidated)

DECLARATION OF STEVEN C. HERZOG

I, Steven C. Herzog, to the best of my knowledge, information and belief,
hereby submit this declaration pursuant to 28 U.S.C. §1746 and declare as follows:

1. I am Counsel with the law firm of Paul, Weiss, Rifkind,
Wharton & Garrison LLP, counsel for Plaintiffs Zakzok, et al., in the above-
captioned action.
2. A true and correct copy of a November 29, 2017, tweet from
@realdonaldtrump, the verified Twitter account of President Donald J. Trump,
with the text “VIDEO: Muslim migrant beats up Dutch boy on crutches!” is
attached hereto as Exhibit A. The underlying tweet that was retweeted by the

President can also be found at

<https://twitter.com/JaydaBF/status/935609305574903812>.

3. A true and correct copy of a November 29, 2017, tweet from @realdonaldtrump, the verified Twitter account of President Donald J. Trump, with the text “VIDEO: Muslim Destroys a Statute of Virgin Mary!” is attached hereto as Exhibit B. The underlying tweet that was retweeted by the President can also be found at <https://twitter.com/JaydaBF/status/935805606447013888>.

4. A true and correct copy of a November 29, 2017, tweet from @realdonaldtrump, the verified Twitter account of President Donald J. Trump, with the text “VIDEO: Islamist mob pushes teenage boy off roof and beats him to death!” is attached hereto as Exhibit C. The underlying tweet that was retweeted by the President can also be found at <https://twitter.com/JaydaBF/status/935775552102981633>.

5. A true and correct copy of the transcript of the November 29, 2017, press briefing with Deputy Press Secretary Raj Sah is attached hereto as Exhibit D. The transcript can also be found at <https://www.whitehouse.gov/the-press-office/2017/11/29/press-gaggle-principal-deputy-press-secretary-raj-shah-en-route-st-louis>.

6. A true and correct copy of a webpage on the Britain First website entitled *Principles of the Britain First Movement* as of December 4, 2017,

is attached hereto as Exhibit E. The webpage can also be found at <https://www.britainfirst.org/principles>.

7. A true and correct copy of the November 29, 2017, *New York Times* article by Peter Baker and Eileen Sullivan entitled *Trump Shares Inflammatory Anti-Muslim Videos, and Britain's Leader Condemns Them*, is attached hereto as Exhibit F. The article can also be found at <https://www.nytimes.com/2017/11/29/us/politics/trump-anti-muslim-videos-jayda-fransen.html>.

8. A true and correct copy of a November 29, 2017, tweet by @NLintheUSA, the verified Twitter account of the Netherlands Embassy, is attached as Exhibit G. The tweet can also be found at <https://twitter.com/NLintheUSA/status/935953115249086464>.

9. A true and correct copy of the November 13, 2017, supplemental submission by the Government (Dkt. No. 29) in *James Madison Project v. Department of Justice*, No. 1:17-cv-00144-APM (D.D.C.), is attached hereto as Exhibit H.

10. A true and correct copy of a June 23, 2017, letter from Marc. T. Short, Assistant to the President for Legislative Affairs, to Rep. K. Michael Conaway and Rep. Adam Schiff, is attached hereto as Exhibit I. The letter can

also be found at

<http://i2.cdn.turner.com/cnn/2017/images/06/23/white.house.letter.pdf>.

11. A true and correct copy of the March 14, 2017, *Media Matters* article by Eric Hanonoki entitled *New DHS Senior Advisor Pushed “Mosque Surveillance Program,” Claimed that Muslims “By-And-Large” Want to Subjugate Non-Muslims* is attached hereto as Exhibit J. The article can also be found at <https://www.mediamatters.org/research/2017/03/14/new-dhs-senior-adviser-pushed-mosque-surveillance-program-claimed-muslims-and-large-want-subjugate/215634>.

12. A true and correct copy of the November 1, 2017, *Mother Jones* article by Noah Lanard entitled *A Fake Jihadist Has Landed a Top Job at Homeland Security* is attached hereto as Exhibit K. The article can also be found at <http://www.motherjones.com/politics/2017/11/a-fake-jihadist-has-landed-a-top-job-at-homeland-security/>.

13. A true and correct copy of the October 13, 2017, *New Yorker* article by Jonathan Blitzer entitled *How Stephen Miller Single-Handedly Got the U.S. To Accept Fewer Refugees* is attached hereto as Exhibit L. The article can also be found at <https://www.newyorker.com/news/news-desk/how-stephen-miller-single-handedly-got-the-us-to-accept-fewer-refugees>.

14. A true and correct copy of the July 10, 1986, *Associated Press* article entitled *U.S., Cuba Fail To Reach Accord on Immigration*, is attached hereto as Exhibit M. The article can also be found at http://articles.latimes.com/1986-07-10/news/mn-22586_1_radio-marti.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at New York, New York on December 4, 2017.


Steven C. Herzog

EXHIBIT A



Jayda Fransen

@JaydaBF

Follow



VIDEO: Muslim migrant beats up Dutch boy on crutches!

This media may contain sensitive material. [Learn more](#)

View

12:40 PM - 28 Nov 2017

19,744 Retweets **27,742** Likes



15K



20K



28K

EXHIBIT B



Jayda Fransen ✓

@JaydaBF

Follow



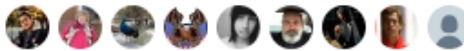
VIDEO: Muslim Destroys a Statue of Virgin Mary!

This media may contain sensitive material. [Learn more](#)

View

1:40 AM - 29 Nov 2017

19,053 Retweets **28,070** Likes



12K



19K



28K

EXHIBIT C

**Jayda Fransen**

@JaydaBF

[Follow](#)

VIDEO: Islamist mob pushes teenage boy off roof and beats him to death!

This media may contain sensitive material. [Learn more](#)

[View](#)

11:40 PM - 28 Nov 2017

18,266 Retweets **28,116** Likes



16K



18K



28K

EXHIBIT D

12/4/2017

Press Gaggle by Principal Deputy Press Secretary Raj Shah en route St. Louis, MO | whitehouse.gov

the WHITE HOUSE



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The White House

Office of the Press Secretary

For Immediate Release

November 29, 2017

Press Gaggle by Principal Deputy Press Secretary Raj Shah en route St. Louis, MO

Aboard Air Force One

En Route St. Louis, Missouri

1:45 P.M. EST

MR. SHAH: We're looking forward to the President's remarks later today. It will be in St. Charles, talking about the need for middle-class tax relief and business tax relief.

The focus of today's remarks are going to be on small businesses. He's going to feature two specific small businesses. One is a local small business incubator, and the other is a jewelry

business -- they're a retail business that also wholesales to about two and a half dozen different retailers throughout the country.

So we're very excited about these remarks, and we're excited about the developments on pushing tax reform and tax cuts. And the President is going to make a push for "Yea" votes.

So with that -- yeah.

Q Democrats are saying that the President's tweets have become an impediment to the functioning of government, if you look at what happened yesterday and then the Muslim tweets today. How do you respond that -- that he's actually in the way of doing the work of the government?

MR. SHAH: Well, look, we think that it's never the wrong time to talk about security and public safety for the American people. Those are the issues he was raising with the tweets this morning.

With respect to the tweets yesterday -- or the tweet yesterday, we think it's very disappointing that Senator Schumer and Leader Pelosi chose to basically pick a fight and engage in a stunt rather than actually governing.

We've long been very public about our disagreements with Democrats on the issues. But choosing not to talk and not to show up, especially when we're very close to a government funding deadline, is irresponsible, it's reckless, and we find it very disappointing.

Q Is the administration doing anything to prepare for the possibility of a government shutdown?

MR. SHAH: Look, there are always contingencies in place, but we hope it doesn't get to that. We really think that Democrats' insistence on attaching amnesty provisions that don't go through the legislative process to must-pass funding bills -- something that Chuck Schumer and other Democrats have warned against in the past. I think Chuck Schumer said that that's the equivalent of an arsonist. So I think you should ask him about what's actually driving the government toward a potential shutdown.

Look, we think that it's very important to fund the government. We have vital national security interests from funding our troops to funding our veterans, and, most importantly, the national security threats around the world. We're seeing that, obviously, in the last 24 hours with North Korea's missile test.

So, we are not anticipating a shutdown. We think that we'll be able to work together, but the developments of the last 24 hours are discouraging.

Zeke.

Q The North Korean government claims now that it has the capacity to strike anywhere in the continental United States with a nuclear-topped missile. Is that the assessment of the U.S. government?

MR. SHAH: I'm not going to get into the details of our assessment, but I will say that the North Korean threat is very grave. It's not just a threat to the United States or a threat to the region -- or the Korean Peninsula region, but a threat to the entire world and the civilized world.

And we're encouraged that more countries are taking more significant steps to help apply as much maximum pressure as we can on North Korea.

Q The President, this morning, mentioned the possibility of new sanctions on North Korea. What was he talking about?

MR. SHAH: Well, I'm not going to get ahead of any announcement that's coming. I will say, though, that the maximum pressure campaign that the United States has been a big part of has really yielded a lot of results.

seen the toughest sanctions ever imposed on North Korea that the Chinese and Russians have signed onto. We've seen China restrict energy shipments to North Korea. We're seeing dozens of countries engage in different efforts in their bilateral ties with North Korea to cut off both energy, economic ties, and diplomatic ties.

So we're seeing more and more steps take place. We'll see future actions by the United States and others, and we're looking forward to applying as much pressure as we can to get to our ultimate goal, which is a denuclearized Korean Peninsula.

Q Can I look back on the tweets this morning? There's two separate ones I want to talk about. The first one is, obviously, the retweets of videos that were said to depict Muslims. One of them has already been sort of shown to not be a Muslim or an immigrant. The entire, sort of, decision to retweet a sort of far-right party in the U.K. has drawn condemnation from Downing Street. You might want to highlight security issues, but can't you concede that there's far better ways to do that than retweeting fake videos in a way that upsets our allies?

MR. SHAH: The President has been talking about these security issues for years now, from the campaign trail to the White House. He talked about them yesterday at the pool spray. He's going to continue to talk about them on Twitter, he's going to talk about them in speeches, he's going to talk about them in policy --

Q The security issue, right? But --

MR. SHAH: I think the President raised a security issue that we've been talking about at length. Look, we are now looking at the possibility of a difficulty in passing government

funding legislation because of disagreements on immigration policy. The Democrats' priority is amnesty. Our priority is safety and security.

Q I have no idea what that had to do with a tweet of a video that has nothing to do with Muslims or immigrants or the United States. I just -- can you make the connection for me?

MR. SHAH: The President is raising these security issues that he's been raising for years.

Q Was the President aware of the source of the tweets that he was retweeting?

MR. SHAH: I haven't spoken to him about that.

Q How's the response to Theresa May and her office condemning the President for retweeting those messages today?

MR. SHAH: We have the greatest respect -- The President has the greatest respect for the British people and for Prime Minister May.

Q How did those tweets come to his attention -- the Muslim videos? Does he follow those folks?

MR. SHAH: Look, we're not going to be focusing on process. I know you guys want to. We're going to be focusing on the --

Q No, we want to focus on -- we want to focus on why the President is retweeting from a far-right, anti-Muslim party that's been condemned by the British leadership.

MR. SHAH: Again, we're going to be focusing on the issues that are being raised, which is safety and security for the American people. We're talking about extreme vetting policies, ensuring that individuals who come to the United States do not pose either a public safety or a terrorism threat, and the other measures that we want to take.

For example, ending the visa lottery system that allows individuals to come to the United States, and replacing it with a merit-based system. Remember, the eight individuals who were killed in New York City last month -- the killer, the terrorist came here through the visa lottery system.

So the President is going to continue talking about these issues because they're important for the safety and security of this country.

Q Does the President think that Muslims are a threat to the United States?

MR. SHAH: No, look, the President has addressed these issues with the travel order that he issued earlier this year and the companion proclamation.

There are plenty of Muslim-majority nations whose citizens can come to the United States without travel restrictions. But those that pose public safety or terrorism threats through our worldwide security review that was overseen by the Department of Homeland Security is why there were certain travel restrictions put in place.

Q I want to ask about -- both another tweet that happened this morning, and a story last night in the New York Times where the President seemed to be forwarding conspiracy theories. The one this morning was the implication, it seemed, that Joe Scarborough was involved, in some way, in the death of an intern in his office. I'm wondering if you could explain if there's any other explanation for what the President meant in his tweet.

Second is the New York Times story. Has the President, at any point since taking office, voiced doubt over either the authenticity of the Access Hollywood tape or the authenticity of President Obama's birth certificate? And if so, can you explain why that's changed from the campaign?

MR. SHAH: On the New York Times story, there are a number of inaccuracies in that report. Each of the issues that it brings up, the President, for quite some time now, has addressed. Nothing has changed on his views.

Q What were the specific inaccuracies?

MR. SHAH: I'm not going to get into the details of it, just to state that there are a number of inaccuracies in the report. Nothing that the President or his staff has said publicly has changed. His views on those issues have not changed. And there's nothing --

Q (Inaudible) publicly?

MR. SHAH: You know, there's nothing further to add.

And then on -- I'm sorry, what was -- yeah, the -- on the issue -- look, I haven't talked to him about it. I have nothing to add on that.

Q Would the President accept a fiscal trigger in the tax cut legislation that Corker is proposing?

MR. SHAH: So we are supportive of fiscal discipline. We think that tax cuts that make American businesses more competitive and bring more jobs to the United States is the way to grow our economy, create more revenue, and fix any fiscal issues coming forward.

We're going to let Congress decide on some of these details, so I don't have specifics on that provision, and if we have something forthcoming, I'll let you know.

Q And is the President reaching out to some of these people who are on the fence -- like Senator McCain, Susan Collins?

MR. SHAH: Look, you know, he went to the Senate yesterday and, after meeting with the senators, got a yes vote out of the Senate Budget Committee. He's going to continue to engage with Senator Collins, others -- and he's spoken to Senator Collins about some of her concerns.

Look, we see a lot of momentum behind this bill. You know, we have passage out of the judiciary committee, passage out of the budget committee. We're looking forward to a vote later this week that we fully expect to pass, and we're looking forward to finally get tax cuts passage by Christmas.

Q Raj, I have two for you. One of the President's tweets this morning -- the retweets that are being condemned by Muslim groups in the United States as being part of a pattern. Some suggest that the President may be spreading Islamophobia in the United States. Does the President -- the White House want to reassure Muslims in the United States of their security? And what steps does the President take to do that going forward?

And secondly, with regards to Theresa May's criticism of the President, does the President still have plans to go England anytime soon? That seems to be -- it was delayed this year. When does he plan on making that trip now?

MR. SHAH: Well, there was nothing scheduled on a trip to the U.K., so any announcement will be forthcoming. We just don't have anything on the books right now. Look, the President is the President of all Americans. The tweets were about national security and protecting the safety and security of the American people.

Q Can you explain that? I mean, these were videos of -- now, in one case, a debunked video of some people that a far-right, anti-Islamic group was claiming was violence allegedly committed by Muslims against other unidentified people in grainy videos. Why is that anything to do about security?

MR. SHAH: Look, a lot of folks want to focus on the videos. We want to focus on the issues. It's about safety. It's about security. It's about ensuring that individuals that come to the United States don't pose a public safety or terrorism threat.

Q Does the President put the focus --

MR. SHAH: Hang on.

Q He didn't retweet issues; he retweeted videos.

MR. SHAH: No, but he is raising the issues.

Q Yeah, but with those videos, if the President wants to make a policy point and talk about national security, couldn't he do that in a way that doesn't include fake videos?

MR. SHAH: He does do that, often. He did that yesterday and he continues to do that all the time. He's talked about -- extensively about these issues. He's signed presidential proclamations, signed executive orders. He's talked about these issues at quite some length, and today was just another example of it.

Q Senator Lee and Senator Rubio, today, have been floating a proposal to sort of bump up the corporate rate to 22 percent. I know that you guys have said a lot of this is getting sorted on Capitol Hill. You've said that corporate rate is one of your bright lines -- red lines, on this. So, can you say whether or not you would support that proposal, specifically?

MR. SHAH: We do support the child tax credit. We also think that it's important to make businesses more competitive. We would not support raising the corporate rate as outlined in that amendment.

Q You talked about improving -- making improvements for the middle class. Can you give us any examples of what the President is looking for and to make things better for the middle class in this package?

MR. SHAH: In this package? Yeah, look, this bill provides significant middle-class tax relief. It provides tax relief in the form of the child tax credit. Both the House and Senate proposals that have moved forward have significant tax relief for middle-class families. A family of four in the median income would receive, on average, an \$1,182 tax credit, so -- or tax cut -- so we believe it's a huge boom for the middle class.

All right, folks.

Q Monday to Utah?

MR. SHAH: I can't confirm that.

END

1:57 P.M. EST



EXHIBIT E



0203 409 6216

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PRINCIPLES OF THE BRITAIN FIRST MOVEMENT

- 1.** Britain First is committed to the maintenance of British national sovereignty, independence and freedom. Our people must enjoy full self-determination, free from the interference and meddling of foreign organisations, such as the European Union, that threaten the integrity of our political institutions. National sovereignty rests with the British people and our democratically elected Parliament. Britain must be a democratic nation where the will of the people is translated into political action.
- 2.** Britain First is a movement of British Unionism. We support the continued unity of the United Kingdom whilst recognising the individual identity and culture of the peoples of England, Scotland, Wales and Northern Ireland. We abhor and oppose all trends that threaten the integrity of the Union.



3. Britain First is committed to preserving our ancestral ethnic and cultural heritage, traditions, customs and values. We oppose the colonisation of our homeland through immigration and support the maintenance of the indigenous British people as the demographic majority within our own homeland. Britain First is committed to maintaining and strengthening Christianity as the foundation of our society and culture.

4. Britain First is committed to creating a revitalised national economy based on private-enterprise and maximum self-sufficiency within an economic policy that puts the interests of British business, industry, workers and our national requirements before those of political doctrine, international finance or meddling foreign organisations. We stand opposed to unbridled free trade and the importation of foreign labour into our homeland.

5. Britain First stands opposed to all alien and destructive political or religious doctrines, including Marxism, Liberalism, Fascism, National Socialism, Political Correctness, Euro Federalism and Islam. Britain First is a movement of British patriotism and democracy.

6. Britain First is committed to creating a country based on freedom of opinion, expression, and assembly, free from unnecessary regulation or interference from the State. We support the establishment of a national Bill of Rights to guarantee, in law, the aforementioned freedoms for the British people.

7. Britain First is determined that Britain's armed forces should be used to defend our homeland – including our kindred sister nations around the world – and should not be deployed in foreign wars that do not serve our national interests.



8. Britain First is committed to a root and branch reform of our corrupt and unaccountable system of government. We demand fairer coverage in the media to candidates seeking election to public office. We demand the end of the monopoly of the old gang parties, whose dominance is maintained by a corporate media that utilises deception and censorship to filter the news according to their own agenda.

9. Britain First is committed to the revitalisation of our farming and fishing sectors and supports policies geared at maximum agricultural self-sufficiency. We demand resolute action to protect, nurture and preserve our native environment, countryside and areas of natural beauty. Britain First will halt all further unnecessary building on green belt land and we will enact legislation aimed at protecting British wildlife.

10. Britain First is committed to significantly reducing crime in our country by means of rigorous law enforcement and an overhaul of our liberal judiciary. Full support will be given to our police forces who are struggling to hold back a tidal wave of crime. We must end the culture of liberal political correctness that hampers law enforcement efforts and creates misery for ordinary, law-abiding citizens.

11. Britain First demands a revolution in national priorities aimed at making Britain a decent, safe, and worthwhile place to live for its citizens. Elected representatives who abuse public trust and engage in corruption will be severely punished. Genuine British citizens will be put first in housing, jobs, education, welfare and health. British history, traditions, culture and customs will be promoted

12/4/2017

Principles of the Britain First Movement

and given their rightly place at the centre of national life. We will end the politically correct preference given to ethnic minority groups.

(C) Britain First, PO Box 119, Swanley, Kent, BR8 9DY

For more details about how we handle your information, please read our **Privacy Policy** and **Terms & Conditions**.

EXHIBIT F

POLITICS

Trump Shares Inflammatory Anti-Muslim Videos, and Britain's Leader Condemns Them

By PETER BAKER and EILEEN SULLIVAN NOV. 29, 2017

WASHINGTON — President Trump touched off another racially charged furor on Wednesday by sharing videos from a fringe British ultranationalist group purportedly showing Muslims committing acts of violence, a move that was swiftly condemned by Britain's prime minister as well as politicians across the spectrum.

The videos Mr. Trump retweeted were titled: “Muslim migrant beats up Dutch boy on crutches!” “Muslim Destroys a Statue of Virgin Mary!” and “Islamist mob pushes teenage boy off roof and beats him to death!” But the assailant in one of them was not a “Muslim migrant” and the other two showed four-year-old events with no explanation.

No modern American president has promoted inflammatory content of this sort from an extremist organization. Mr. Trump's two most recent predecessors, George W. Bush and Barack Obama, both made a point of avoiding public messages that were likely to be seen as anti-Muslim and could exacerbate racial and religious animosities, arguing that the war against terrorism was not a war against Islam.

But Mr. Trump has shown little such restraint, targeting Muslims with a broad brush, including when he claimed on the campaign trail last year that “Islam hates us” and when he called for a “total and complete shutdown” of Muslims coming to the United States. Since taking office, he has sought to block visitors from select Muslim-majority nations and engaged in a long-distance feud with the Muslim mayor of London, whom he branded weak on terrorism.

The messages came at a time when Mr. Trump has been lashing out at an array of perceived adversaries, including the National Football League, CNN, NBC and Democratic leaders. He referred to a senator as “Pocahontas” this week in front of Navajo veterans he was honoring. In a meandering speech in St. Charles, Mo., on Wednesday, Mr. Trump labeled North Korea’s leader a “sick puppy,” asserted that welfare recipients lived better than some people with jobs, noted that his wealthy friends “love their children” and insisted that he did not like some bankers even though he was making their job “easy for them.”

Mr. Trump’s unbridled talk of Muslim violence thrilled some conservative supporters who see him as a truth teller breaking from the shackles of political correctness, but it alarmed mainstream political leaders in the United States and Britain, who deemed it reckless and counterproductive.

Senator Jeff Flake, Republican of Arizona, who has broken with Mr. Trump, called the postings “highly inappropriate” and added, “I hope he takes them down and doesn’t do it again.”

Senator Lindsey Graham, Republican of South Carolina, who lately has been an ally of the president, said Mr. Trump was “legitimizing religious bigotry” with the Twitter posts. “We need Muslim allies in the war on terror,” he said. “I can only imagine how some of our Muslim allies must feel when the president gives legitimacy to it.”

The reaction was sharp in London, where Prime Minister Theresa May, the leader of the Conservative Party, denounced the president for sharing material posted by Jayda Fransen, the deputy leader of Britain First, the ultranationalist group. “It is wrong for the president to have done this,” Mrs. May’s office said in a statement. “Britain First seeks to divide communities by their use of hateful

narratives that peddle lies and stoke tensions. They cause anxiety to law-abiding people.”

David Lammy, a Labour Party member of Parliament, echoed that on Twitter. “Trump sharing Britain First,” he wrote. “Let that sink in. The President of the United States is promoting a fascist, racist, extremist hate group whose leaders have been arrested and convicted. He is no ally or friend of ours.”

Late in the day, Mr. Trump pushed back against the prime minister. “Theresa,” he wrote on Twitter, initially getting her handle wrong, “don’t focus on me, focus on the destructive Radical Islamic Terrorism that is taking place within the United Kingdom.”

Sarah Huckabee Sanders, the White House press secretary, defended the president’s tweets, saying he was talking about the need for national security and military spending.

“The threat is real,” she told reporters. “The threat needs to be addressed. The threat has to be talked about, and that’s what the president is doing in bringing that up.”

Some activists on the right expressed appreciation for the blunt talk about the threat from Islamic extremists. “It’s a pretty major undercurrent for all of American politics since 2001, as it should be,” said Mark Krikorian, the executive director of the Center for Immigration Studies, which advocates less immigration. “That’s not news. He just expresses that stuff in the most unfiltered, guy-ranting-in-the-bar” way.

The first video distributed by Mr. Trump to his nearly 44 million followers on Wednesday showed a teenage boy attacking another and was presented as footage of a “Muslim migrant” beating a Dutch boy.

But according to local officials, both boys are Dutch. The clip was taken in Monnickendam, a small town in the North Holland province of the Netherlands, in May and shows a teenager punching and kicking another boy holding a crutch. Marleen van Fessem, a spokeswoman for the local public prosecutor’s office,

confirmed the 16-year-old boy who was arrested after the video came to light was “born and raised in the Netherlands.”

The Embassy of the Netherlands in Washington then chided Mr. Trump. “Facts do matter,” it replied to the president on Twitter.

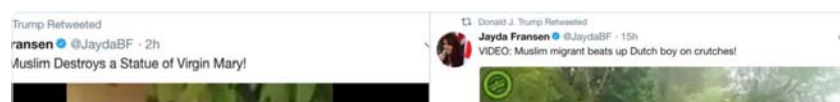
The two additional videos were taken in 2013, one in Syria, the other in Egypt, and are provided with no explanation of the political turmoil taking place in those countries at the time, and with no details on the extremist affiliations of one of the men in the video.

The president’s decision to share them was in keeping with his habit of disseminating information he has not verified even as he attacks news organizations for producing “fake news.” Two White House aides, who asked not to be identified because they were not authorized to speak publicly, said Mr. Trump found the videos himself. Aides said they believed he spotted one on the Twitter feed of Ann Coulter, the conservative commentator.

In an email later in the day, Ms. Coulter said that while she was still “annoyed” that Mr. Trump had not yet built the border wall he promised, “I LOVE the president’s tweets!” Responding to the British criticism, she said, “Maybe between blathering about the values of ‘tolerance and respect,’ poor Theresa May might want to ask herself whether the Muslims the U.K. is importing at breakneck speed share these ‘values of tolerance and respect.’”

Britain First was partly founded in 2011 by James Dowson, a far-right activist who left the group in 2014 and supported Mr. Trump during the 2016 presidential campaign. The organization calls itself a “patriotic” political party, but has been criticized by human rights activists as an extremist group that seeks to bait Muslims.

Ms. Fransen, who has previously been charged in Britain with “religious aggravated harassment,” thanked Mr. Trump for promoting her message. “I’m facing prison for criticising Islam,” she wrote on Twitter. “Britain is now Sharia compliant. I need your help!”





Jayda Fransen

@JaydaBF

THE PRESIDENT OF THE UNITED STATES, DONALD TRUMP, HAS RETWEETED THREE OF DEPUTY LEADER JAYDA FRANSEN'S TWITTER VIDEOS! DONALD TRUMP HIMSELF HAS RETWEETED THESE VIDEOS AND HAS AROUND 44 MILLION FOLLOWERS! GOD BLESS YOU TRUMP! GOD BLESS AMERICA! OCS @JaydaBF @realDonaldTrump

7:05 AM - Nov 29, 2017

967

2,136

3,973

In the United States, Mr. Trump's tweets were welcomed by a former Ku Klux Klan leader, David Duke, who wrote on Twitter: "Thank God for Trump! That's why we love him!"



David Duke

@DrDavidDuke

Trump retweets video of crippled white kid in Europe being beaten by migrants, and white people being thrown off a roof and then beaten to death, He's condemned for showing us what the fake news media WON'T. Thank God for Trump! That's why we love him!

9:33 AM - Nov 29, 2017

1,098

897

2,061

But they undercut efforts by Mr. Trump's own administration to dispel the impression that he is anti-Muslim. Jared Kushner, the president's son-in-law and senior adviser, had expressed hope that his success at building alliances with leaders from Saudi Arabia and other Arab nations in recent months had put that perception behind them, according to White House officials.

James K. Glassman, who as under secretary of state under Mr. Bush was charged with promoting American ideals around the world, said Mr. Trump was "simply playing into the hands of terrorists."

"New recruits are attracted not by some phony version of Islam," he said, "but by adolescent fantasies of sado-masochism and power and by the idea of being part of a global conflict that's transfixed and frightened the rest of the world. The president's retweet just reinforces the narrative. Not good."

Craig M. Considine, a lecturer at Rice University and the author of several books on Muslims in the West, called the tweets an effort to stir up intolerance of Muslims in Western countries and build a case for driving them out. "He's playing on this fear, whipping up the fear," Mr. Considine said. "It is completely reckless."

Peter Baker and Eileen Sullivan reported from Washington. Reporting was contributed by Megan Specia, Maggie Haberman, Laurie Goodstein and Mike McIntire from New York; Dan Bilefsky from London; Jonathan Martin and Thomas Kaplan from Washington; and Jim Tankersley from St. Louis.

A version of this article appears in print on November 30, 2017, on Page A1 of the New York edition with the headline: Trump Sets Off Furor in Sharing Extremist Videos.

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EXHIBIT G

 **Jayda Fransen**  @JaydaBF · Nov 28
VIDEO: Muslim migrant beats up Dutch boy on crutches!

This media may contain sensitive material. [Learn more](#) **View**

15K 20K 28K

 **Netherlands Embassy**   [Follow](#)

@NLintheUSA

Replying to [@JaydaBF](#) [@realDonaldTrump](#)

[.realDonaldTrump](#) Facts do matter. The perpetrator of the violent act in this video was born and raised in the Netherlands. He received and completed his sentence under Dutch law.

11:26 AM - 29 Nov 2017

20,197 Retweets 41,476 Likes

1.5K 20K 41K

EXHIBIT H

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JAMES MADISON PROJECT, *et al.*,

Plaintiffs,

V.

No. 1:17-cv-00144-APM

DEPARTMENT OF JUSTICE, *et al.*,

Defendants.

**DEFENDANTS' SUPPLEMENTAL SUBMISSION AND FURTHER RESPONSE TO
PLAINTIFFS' POST-BRIEFING NOTICES**

PRELIMINARY STATEMENT

The Court has asked defendants Office of the Director of National Intelligence (ODNI), Central Intelligence Agency (CIA), Department of Defense, and Department of Justice to provide “insight on . . . the President’s tweets and what they are, how official they are, are they statements of the White House and the President.” Stat. Conf. Tr. at 6:8-10 (Nov. 2, 2017). When it made its request, the Court referred to the argument in the “final pleading” of plaintiffs James Madison Project and Josh Gerstein “that we just can’t dismiss these tweets out of hand.” *Id.* at 6:11-12.

Going beyond the argument in their “final pleading,” plaintiffs have filed several post-briefing “notices” asserting that the President and the White House Press Secretary have disclosed in five recent statements, including three that are not tweets, that ODNI, the CIA, the National Security Agency (NSA), or the Federal Bureau of Investigation (FBI) has made a final determination as to the veracity of one or more of the factual allegations allegedly contained in the two-page synopsis of the so-called dossier. ECF No. 23 at 1-2; ECF No. 24 at 1-2; ECF No.

26 at 3; ECF No. 27 at 1-2. Plaintiffs argue on the basis of that assertion that ODNI, CIA, NSA, and the FBI have waived the *Glomar* responses they have provided to Items 2 and 3 of plaintiffs' request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552.¹ *See id.*

Plaintiffs' argument is without merit. The government is treating the statements upon which plaintiffs rely as official statements of the President of the United States, but nothing in the statements states or even implies that ODNI, the CIA, NSA, or the FBI has made a final determination as to the veracity of any factual allegation allegedly contained in the two-page synopsis. That fact is dispositive because an official statement cannot waive a *Glomar* response unless the information disclosed matches exactly the information requested. Neither the President nor the White House Press Secretary has disclosed the basis for any of the statements that he or she has made about the so-called dossier. Plaintiffs complain, in fact, that the President has not done so. Nothing in the statements upon which plaintiffs rely thus constitutes a waiver of the *Glomar* responses of ODNI, the CIA, NSA, or the FBI to Items 2 and 3 of plaintiffs' FOIA request.

¹ Directed to ODNI, the CIA, NSA, and the FBI, Items 2 and 3 of plaintiffs' request seeks "final determinations regarding the accuracy (or lack thereof) of any of the individual factual claims listed in the two page synopsis" and "investigative files relied upon in reaching the final determinations referenced in category #2." ECF No. 7 ¶ 14. The two-page synopsis has not been produced to plaintiffs and plaintiffs do not challenge its withholding pursuant to FOIA Exemptions 1 and 3.

FACTUAL BACKGROUND

The five statements to which plaintiffs point in arguing that the *Glomar* responses of ODNI, the CIA, NSA, and the FBI to Items 2 and 3 of plaintiffs' request have been waived are the following:

1. A tweet of October 19, 2017, in which the President said: "Workers of firm involved with the discredited and Fake Dossier take the Fifth. Who paid for it, Russia, the FBI or the Dems (or all)?" ECF No. 25-4.²

2. A tweet of October 21, 2017, in which the President said: "Officials behind the now discredited 'Dossier' plead the Fifth. Justice Department and/or FBI should immediately release who paid for it." ECF No. 25-5.

3. An October 21, 2017, interview conducted by Lou Dobbs of Fox Business. Ex. A at 1.³ Asked during the interview to comment on "efforts by the Hillary Clinton campaign and the Democratic National Committee (DNC) to fund research in [an] attempt to smear his presidential campaign," the President said:

Don't forget Hillary Clinton totally denied this. She didn't know anything. She knew nothing. All of a sudden they found out. What I was amazed at, it's almost \$6 million that they paid and it's totally discredited, it's a total phony. I call it fake news. It's disgraceful. It's disgraceful.

Id.

4. An October 31, 2017 press briefing during which the White House Press Secretary was asked to provide a "definition of collusion" that would explain her view that "Trump didn't

² All of the tweets to which plaintiffs refer are from @realDonaldTrump, the personal Twitter account President Trump established in 2009 and continues to use to tweet about a variety of topics.

³ References to exhibits are to the exhibits to this memorandum.

collude [with the Russians] but Hillary did.” Ex. B at 9. Her response was: “I think the exchanging [of] millions of dollars to create false information is a pretty big indication.” *Id.*

5. An interview of the President, broadcast on November 5, 2017, during which he was asked by Sharyl Atkisson to respond to revelations that “the Hillary Clinton campaign . . . funded that so-called dossier.” Ex. C at 2. His response included the following:

[W]hen you look at that horrible dossier which is a total phony fake deal like so much of the news that I read when you look at that and take a look at what’s gone on with that and the kind of money we’re talking about it is a disgrace.

Id.

ARGUMENT

NOTHING IN THE STATEMENTS UPON WHICH PLAINTIFFS RELY CONSTITUTES A WAIVER OF THE *GLOMAR* RESPONSES OF ODNI, THE CIA, NSA, OR THE FBI TO ITEMS 2 AND 3 OF PLAINTIFFS’ FOIA REQUEST.

The Court has asked, broadly, about the official status of the President’s tweets. *See* Stat. Conf. Tr. at 6: 8-10 (asking the parties to “provide insight on . . . the President’s tweets and what they are, how official they are, are they statements of the White House and the President”). In answer to the Court’s question, the government is treating the President’s statements to which plaintiffs point – whether by tweet, speech or interview – as official statements of the President of the United States. The key point, however, is that, regardless of the medium, none of those statements matches the information plaintiff is seeking. Accordingly, the statements cannot constitute a waiver of the *Glomar* responses that ODNI, the CIA, NSA, and the FBI have provided to Items 2 and 3 of plaintiffs’ request

“[L]ike other information withheld pursuant to an exemption, an agency can waive a *Glomar* response through official acknowledgment.” *Mobley v. CIA*, 806 F.3d 568, 584 (D.C. Cir. 2015). “An agency’s official acknowledgment of information by prior disclosure . . . cannot be based,” however, “on mere public speculation, no matter how widespread.” *Wolf v. CIA*, 473

F.3d 370, 378 (D.C. Cir. 2007). “[A] strict test [thus] applies to claims of official disclosure.” *Moore v. CIA*, 666 F.3d 1330, 1333 (D.C. Cir. 2011) (quoting *Wilson v. CIA*, 586 F.3d 171, 186 (2d Cir. 2009)). This test requires the plaintiff to show that “the information requested [is] as specific as the information previously released . . . match[es] the information previously disclosed . . . and . . . [has] already . . . been made public through an official and documented disclosure.” *Id.* (quoting *ACLU v. Dep’t of Def.*, 628 F.3d 612, 620-21 (D.C. Cir. 2011)); accord *ACLU v. Dep’t of Justice*, 640 F. App’x 9, 11 (D.C. Cir. 2016); *Mobley*, 806 F.3d at 583 (D.C. Cir. 2015); *Wolf*, 473 F.3d at 378; *Pub. Citizen v. Dep’t of State*, 11 F.3d 198, 202 (D.C. Cir. 1993); *Krikorian v. Dep’t of State*, 984 F.2d 461, 467-68 (D.C. Cir. 1993); *Fitzgibbon v. CIA*, 911 F.2d 755, 765 (D.C. Cir. 1990).

None of the statements upon which plaintiffs rely identifies information provided by ODNI, the CIA, NSA, or the FBI as the basis for the assertions contained in the statements that the so-called dossier is “discredited,” “phony,” “fake,” or “false.” No “match” therefore exists between anything disclosed in the statements and the information plaintiffs seek in Items 2 and 3 of their FOIA request. *See Moore*, 666 F.3d at 1333 (quoting *ACLU*, 628 F.3d at 620). The Court cannot assume that the President was expressing a view based on “some knowledge and understanding” *provided by these agencies*. Stat. Conf. Tr. at 6:17-18. No waiver of the *Glomar* responses of ODNI, the CIA, NSA, or the FBI to Items 2 and 3 may therefore be inferred from any of the statements.

ACLU v. CIA, 710 F.3d 422 (D.C. Cir. 2013), which the Court referred to at the status conference, does not suggest otherwise.⁴ *See* Stat. Conf. Tr. at 7:17-21. The court found in

⁴ The Court asked whether a Presidential tweet is “the equivalent of” the “public statements and speeches” at issue in *ACLU v. CIA*. Stat. Conf. Tr. at 7:17-21. The answer is that a tweet can be

ACLU that the CIA’s broad *Glomar* response to a request for ten categories of documents pertaining to drone strikes generally, and not merely to the CIA, was not “logical” or “plausible” due to official acknowledgments by the President and others that the United States engages in targeted strikes using drones. 710 F.3d at 431. The court did not purport to deviate from its long-standing doctrine on the official acknowledgment of information. Using the standard instead for evaluating the validity of withholdings under FOIA exemptions, the court said: “The question before us, then, is whether it is ‘logical or plausible[’] . . . for the CIA to contend that it would reveal something not already officially acknowledged to say that the Agency ‘at least has an intelligence interest’ in such strikes.” *Id.* at 429 (quoting *Wolf*, 473 F.3d at 375). The portion of *Wolf* on which the court expressly relied was a discussion of Exemption One, and whether it met the “logical and plausible” standard by which courts normally evaluate that exemption.

The “‘logical’ or ‘plausible’” standard has never been the standard for the official acknowledgment of information. Although the court was less than precise in *ACLU*, it has subsequently reiterated its adherence to the traditional standard. It did so, in fact, in a later appeal in the same case. Stating that “[t]his circuit applies a three-part test to determine when an agency has ‘officially acknowledged’ requested information,” the court said:

This test is quite strict. “Prior disclosure of similar information does not suffice; instead, the *specific* information sought by the plaintiff must already be in the public domain by official disclosure.” This court has explained that this “insistence on exactitude recognizes the Government’s vital interest in information relating to national security and foreign affairs.” In each case where a FOIA requester contends that an agency has acknowledged information it seeks to withhold, the burden is on the requester to point to specific information in the public domain that “appears to duplicate that being withheld.”

the equivalent of a public statement or speech, but the medium is not determinative. The significance of any statement, regardless of the medium, will depend on its substance.

ACLU v. DOJ, 640 F. App'x 9, 11 (D.C. Cir. 2016) (quoting *Wolf*, 473 F.3d at 378) (citations omitted).

Nor would *ACLU* be apposite even assuming, *arguendo*, that it had any applicability beyond its facts. Plaintiffs concede that President Trump may have “issued his tweets based strictly and exclusively upon his own personal knowledge independent of what he has learned as President of the United States, as well as what he may have seen on cable television.” ECF No. 26 at 2. Plaintiffs thereby concede that the characterization of the so-called dossier as something that is “discredited,” “phony,” “fake,” or “false” in the statements upon which they rely may be based on something other than information provided by ODNI, the CIA, NSA, or the FBI. None of those statements thus waives the *Glomar* responses provided by ODNI, the CIA, NSA, and the FBI to Items 2 and 3 of plaintiffs’ FOIA request.

Plaintiffs express dismay that the President has not identified the information that forms the basis for his views about the so-called dossier, *see* ECF No. 26 at 2-3, but plaintiffs are not entitled to clarification of what the President has chosen to say. The above *Glomar* responses should therefore be upheld.

CONCLUSION

Defendants’ motion for summary judgment should be granted, and plaintiffs’ cross motion for summary judgment denied, for the reasons set forth above and for the other reasons presented by defendants.

Respectfully submitted,

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Dated: November 13, 2017

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2017, I served the within memorandum and the exhibits to the memorandum on all counsel of record by filing them with the Court by means of its ECF system.

s/ David M. Glass

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

<hr/>)	
JAMES MADISON PROJECT, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 1:17-cv-00144-APM
)	
DEPARTMENT OF JUSTICE, <i>et al.</i> ,)	
)	
Defendants.)	
<hr/>)	

**EXHIBITS TO DEFENDANTS' SUPPLEMENTAL SUBMISSION AND FURTHER
RESPONSE TO PLAINTIFFS' POST-BRIEFING NOTICES**

- Ex. A Henry Fernandez, *Trump Exclusive: President Blasts Democrats' Dirty Dossier Play, Hints at Fed Choice*, Fox Business (Oct. 25 2017), <http://www.foxbusiness.com/politics/2017/10/25/trump-exclusive-president-blasts-democrats-dirty-dossier-play-hints-at-fed-choice.html> (accessed Nov. 3, 2017)
- Ex. B White House, Office of the Press Secretary, *Press Briefing by Press Secretary Sarah Sanders, 10/31/2017, #29*, <https://www.whitehouse.gov/the-press-office/2017/10/31/press-briefing-press-secretary-sarah-sanders-10312017-29> (accessed Nov. 5, 2017)
- Ex. C *President Trump on the Russian Investigation and Security*, Full Measure (Nov. 5, 2017), <http://fullmeasure.news/news/politics/trump-on-the-russian-investigation> (accessed Nov. 5, 2017)

James Madison Project v. Dep't of Justice
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Defendants' Supplemental Submission and
Further Response to Plaintiffs' Post-Briefing
Notices

Ex. A

FOX BUSINESS

Trump EXCLUSIVE: President blasts Democrats' dirty dossier play, hints at Fed choice

By Henry Fernandez | Published October 25, 2017 | FOX Business

President Trump told FOX Business' Lou Dobbs on Wednesday that efforts by the Hillary Clinton campaign and the Democratic National Committee (DNC) to fund research in attempt to smear his presidential candidacy is "disgraceful."

"Don't forget Hillary Clinton totally denied this. She didn't know anything. She knew nothing. All of a sudden they found out. What I was amazed at, it's almost \$6 million that they paid and it's totally discredited, it's a total phony. I call it fake news. It's disgraceful. It's disgraceful, Trump said on "Lou Dobbs Tonight."

Hillary Clinton recently slammed new reports of her ties to Russia's nuclear energy deals, claiming the corruption allegations have been "debunked repeatedly."

The former secretary of state said on C-SPAN Monday that "It's the same baloney they've been peddling for years, and there's been no credible evidence by anyone."

Trump said the Clinton camp is now trying to backtrack from the dossier that contained allegations that the Russian government had collected compromising information about Trump and that the Kremlin was engaged in an active effort to assist his presidential campaign.

"It is very interesting. She denied it. Her own people denied it. Everybody and now they are sort of scooting around trying to figure out what to say," he said.

The House Intelligence Committee announced Tuesday it's joining the House Oversight Committee in investigating why the Obama administration approved the sale of Uranium One to Russia, giving Moscow control of 20% of U.S. uranium supply, despite a federal investigation that revealed Russian kickbacks and extortion.

"That's the real collusion, believe me. There was no collusion on my side, I can tell you that," Trump said.

According to the Washington Post, Marc E. Elias, an attorney representing the Clinton campaign and the DNC, retained the D.C.-based firm Fusion GPS to conduct opposition research that resulted in the infamous and controversial Trump dossier. The dossier contained allegations that the Russian government had collected compromising information about Trump and that the Kremlin was engaged in an active effort to assist his presidential campaign.

The president noted that the push to connect his 2016 campaign to Russia has always been an excuse by the Democrats for losing the election.

"When you hear the kind of money they spent, and when you see all of the things about [Tony] Podesta and you see all the relationships that they actually have with Russia," Trump said, referring to what he called Democratic efforts to link his campaign to Russia.

Special Counsel Robert Mueller is reportedly investigating the Democratic lobbying group led by Tony Podesta, brother of Hillary Clinton's campaign manager, John Podesta.

The president also continued to hedge on who might be the next Federal Reserve chair as the focus appears to be on Stanford University economics professor John Taylor and current Fed Governor Jerome Powell.

"I really have it down to two and maybe three people and I think over the next, very short period of time I will be announcing it. It won't be a shock," Trump said.

Trump expressed his admiration for current Fed Chair Janet Yellen but said the decision to select a new head of the central bank is something to which he would like to contribute.

“You like to make your own mark which is maybe one of the things she’s got a little bit against her, but I think she is terrific. We’ve had a great talk and we are obviously doing great together, you look at the markets,” Trump said.

URL

<http://www.foxbusiness.com/politics/2017/10/25/trump-exclusive-president-blasts-democrats-dirty-dossier-play-hints-at-fed-choice.html>

Quotes delayed at least 15 minutes. Real-time quotes provided by BATS BZX Real-Time Price. Market Data provided by Interactive Data (Terms & Conditions). Powered and Implemented by Interactive Data Managed Solutions. Company fundamental data provided by Morningstar. Earnings estimates data provided by Zacks. Mutual fund and ETF data provided by Lipper. Economic data provided by Econoday. Dow Jones & Company Terms & Conditions.

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Defendants' Supplemental Submission and
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Ex. B

the WHITE HOUSE PRESIDENT DONALD J. TRUMP



From the Press Office

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The White House

Office of the Press Secretary

For Immediate Release

October 31, 2017

Press Briefing by Press Secretary Sarah Sanders, 10/31/2017, #29

James S. Brady Press Briefing Room

2:37 P.M. EDT

MS. SANDERS: Good afternoon. Happy Halloween. I thought for sure I'd see some costumes today.

Q We're dressed as reporters.

JA 1532

MS. SANDERS: That's not nearly as exciting as what you could have come as, but we'll let it slide for today.

Today, I'm once again pleased to talk about the topic that we and, more importantly, the American people are all very excited about: tax cuts.

We're approaching the release of legislation based on the tax reform framework the President supports. Unfortunately, no matter how great the plan is for the hardworking families, Democrats are expected to criticize the tax cuts as they've done in recent years, putting partisan politics ahead of their constituents' pocketbooks.

While arguing over President Reagan's 1981 tax cuts, Democrats claimed it would only benefit the rich. The Democrat Speaker of the House at the time, Tip O'Neill, called them royal tax cuts, because he claimed they favored the wealthiest Americans.

What really happened was more than 14 million new jobs were created over five years; incomes grew by over 22 percent for the next seven years; and the economy grew by over 3.5 percent, on average, for the rest of the decade.

Some Democrats must have been paying attention to history, because as recently as last year, they publicly supported many of the principles for which the President is advocating today. That includes lowering the corporate tax rate, which is the highest among developed nations, so that our greatest businesses can be more competitive.

In fact, Presidents Obama and Clinton both advocated for cutting corporate tax rates. Senate Democrat Leader Chuck Schumer in the past called our tax system "upside down and inside out." And last year, he actually admitted that cutting corporate taxes is "really important for American competitiveness." Minority Leader Nancy Pelosi apparently agreed, because she said, "It is long past time for tax reform that would lower the corporate tax rate."

The only thing that seems to have changed since then is who occupies the White House.

Since day one, the President has been committed to jumpstarting our economy and giving hardworking Americans the raise they deserve. Under the framework supported by the President, our economy will grow, businesses will invest back in

the country, and American workers will see their wages grow. In fact, the Council for Economic Advisers estimates that a typical, hardworking American family would get a \$4,000 pay raise.

So to Democrats in Congress, particularly those who would like to place American jobs and middle-class tax relief ahead of partisan politics, the question is very simple: Do you believe the Americans people deserve a pay raise?

We certainly do. And that's what we'll be focused on and fighting for. The choice is yours.

And with that, I'll take your questions.

Steve.

Q Sarah, where does the President stand on this tax deduction for state and local taxes? That seems to be in dispute up on the Hill.

MS. SANDERS: Look, we've laid out our priorities for the tax cut plan. Those haven't changed. The President is going to continue working with both the House and the Senate to push forward and make sure that the principles he laid out are achieved. And we haven't made any adjustments to that at this time.

Q But what about the mortgage interest deduction?

MS. SANDERS: Again, same point here: We haven't made any changes to the priorities that we've laid out. I'm not going to negotiate between you and I. But the President is going to be involved in ongoing conversations with members of both the House and Senate, and we've laid out what our priorities are and we're going to stick to those as we move forward.

Q Has it come up in the conversation with Speaker Ryan just now?

MS. SANDERS: They're still meeting now, and we'll have a readout on that meeting once it's completed.

Matthew.

Q Thanks, Sarah. A question on yesterday's Mueller news. President Trump's nominee to serve as chief science advisor over at the Agriculture Department is Sam Clovis, and Clovis was the campaign supervisor cited in that Papadopoulos plea. And his lawyer has since acknowledged that he was the one in that plea who

encouraged Papadopoulos in August 2016 to make a trip to Russia to meet with Russia officials about the campaign.

Given all that, is the President still comfortable with him, Sam Clovis, serving in the administration?

MS. SANDERS: I'm not aware that any change would be necessary at this time.

Q And on that note, is the administration aware of who the other three or four campaign individuals who were referenced in that Papadopoulos plea were? And are any serving in or advising the administration?

MS. SANDERS: I'm not aware of the specific individuals. What I can say is that I think Papadopoulos is an example of actually somebody doing the wrong thing while the President's campaign did the right thing.

All of his emails were voluntarily provided to the special counsel by the campaign, and that is what led to the process and the place that we're in right, was the campaign fully cooperating and helping with that.

What Papadopoulos did was lie, and that's on him, not on the campaign. And we can't speak for that.

Jon.

Q The Chief of Staff, John Kelly, said that this counsel investigation has been very distracting to the President. Can you elaborate on that? Is this affecting his ability to get the job done here?

MS. SANDERS: I don't think it's at all affecting his ability to get his job done. And that wasn't the point he was making. You guys seem completely obsessed with this, while there are a lot of other things happening around the country, and, frankly, a lot of other things that people care a lot more about. The media refuses to cover it, and I think that's the distraction, instead of the focus being constantly on tax cuts and tax reforms.

My guess is, if you look at the records, the questions that I take in here day out have far more to do with an investigation that, frankly, most Americans don't care too much about, and a whole lot less to do with policies that actually impact them.

Q Why are you so confident that the investigation won't go on much longer?

MS. SANDERS: Because we have confidence that it's going to come to a close in short time.

Glenn, go ahead. (Phone rings.) Glenn has got a call. Maybe he needed to phone a friend to get help with his question. (Laughter.)

Q Sarah --

MS. SANDERS: Glenn, I had more faith in you to be able to ask a question all by yourself, but --

Q The other thing that General Kelly said yesterday was in reference to General Lee, and he said that the Civil War was a result of a failure to compromise. Was he suggesting that there be compromise on the abolition of slavery? Can you expand on exactly what he was talking about?

MS. SANDERS: Look, all of our leaders have flaws -- Washington, Jefferson, JFK, Roosevelt, Kennedy. That doesn't diminish their contributions to our country, and it certainly can't erase them from our history. And General Kelly was simply making the point that just because history isn't perfect, it doesn't mean that it's not our history.

Q Let me follow up. You're a proud daughter of the South. When you see Nathan -- like a statue as they had in Memphis of somebody like Nathan Bedford Forrest, who was responsible for the Fort Pillow Massacre, and other folks like that, is there a differentiation? Do you think there are certain Confederate figures who don't deserved to be honored, like Nathan Bedford Forrest?

MS. SANDERS: Look, I don't think that we should sit here and debate every moment of history. I think those moments took place. There are moments that we're going to be a lot less proud of than others, but we can't erase the fact that they happened. I think you have to determine where that line is. The President has said that those are something that should be left up to state and local governments, and that's not who I'm here representing today, so I'm not going to get into the back and forth on it.

Jon.

Q Thanks a lot, Sarah. Just to follow up on what you said yesterday and what you have reiterated today about this investigation and your belief that it's going to be wrapping up soon. Yesterday, you said that, "Those are the indications that we have

at this time." From your point of view, is what you're saying wishful thinking? Is it spin? Are you getting leaked information that gives you that indication? Why do you continue to say that you believe that it is wrapping up soon?

MS. SANDERS: Again, that position has not changed, and we do think that it will wrap up soon. I didn't say it would be three or four days; I said soon. And we hope that that's the case, in large part because we know that the facts are on our side, there was no collusion. And we're looking forward to moving forward, and hoping that you guys can as well, and we can actually start talking about and focusing on some of the things that I mentioned to Jonathan that we feel the American people would rather the conversation be turned towards.

Jessica.

Q At the Papadopoulos hearing --

MS. SANDERS: Sorry, I'm going to keep moving.

Q I just want to ask you this one thing about one of the prosecutors that is on Bob Mueller's team. At the plea hearing for Mr. Papadopoulos last month, he hinted at the possibility of more to come in the investigation. He said the Mueller probe is "a large-scale, ongoing investigation of which this case" -- the Papadopoulos case -- "is a small part." So, given what he said, as an officer of the court, are you disagreeing with anything that he said in his remarks during that plea hearing?

MS. SANDERS: Maybe his reference is in looking more to come between the Democrats and the Clinton campaign, since I think if there's any evidence that we've seen to date, it's between them colluding with other foreign governments, certainly not from our side.

Jessica.

Q Sarah, I have one question about what the President said today, and then an Asia trip question, broadly. But the first question is: The President mentioned in the tax reform meeting there that he was going to be announcing "soon" some companies that are coming back to the United States. Can you either name them or give us the industry that we're talking about?

MS. SANDERS: You know I'm not going to get ahead of an announcement that the President is going to make. If he wasn't willing to tell you today, I'm certainly not going to step in and do it.

Q And then on the Asia trip, the speech that he's making at APEC is being billed as a theme for the trip as well as the Indo-Pacific. Does this administration see India as a pivotal part of your strategy when it comes to the Asia-Pacific more broadly?

MS. SANDERS: It certainly plays a big role, and General McMaster will be here later this week to discuss the trip in greater depth and more detail. And he'll be happy to address more of those questions at that time.

Q Sarah, the former White House strategist, Steve Bannon, is saying the administration should push back harder against Special Counsel Robert Mueller. Does the President support defunding the special counsel?

MS. SANDERS: No. And I'm not sure what we'd push back against since, so far, all they've done is come up with ways and shown more and more that there was no connection between the Trump campaign and collusion with Russia.

John.

Q Thank you, Sarah. Two questions, please. First, the President is quoted last year as calling Mr. Papadopoulos, and I quote, "a great guy." And today it was "a liar." And I wonder, just to kind of clear the air, how well did he actually know him? And was briefed by him often? Did he have frequent meetings? How well does he know this man?

MS. SANDERS: My understanding is the only interaction he ever had was the one meeting that the advisory council gathered together, where he was in a large group of other people in the room. And to my knowledge, that's the only interaction they ever had.

Again, this was a campaign volunteer. He wasn't somebody that was a senior advisor, as many of you want to bill him to be. He was somebody that played a minimal roll, if one at all, and was part of a voluntary advisory board. That's it.

Q And he only met the President -- candidate Trump, one time?

MS. SANDERS: That's my understanding, John. That's the only incident that we're aware of.

Q The other thing I wanted to ask was that a few weeks ago, when the President sent out Twitters about the media, he suggested that equal time be applied. Now, to many people, that was a euphemism for the Fairness Doctrine, something that

President Ronald Reagan helped eliminate and which Democrats, such as Leader Pelosi, have tried to revive. Is he seriously in favor of reviving the Fairness Doctrine? And I might add that its premier opponent of revival was a young congressman named Mike Pence.

MS. SANDERS: I don't know that he's into the deep weeds of the Fairness Doctrine, but I know he certainly believes in fairness. And I think that he would like to see that applied, certainly, to his administration in a way that it probably hasn't been so far.

Charlie.

Q The President -- sorry, Republican Senate candidate Roy Moore is on Capitol Hill today. Does the President have plans to meet with him at any point today or this week before he leaves for Asia?

MS. SANDERS: No, there's no planned meetings at this time.

Q Sarah, there is still a lot to be negotiated on taxes -- SALT, which was just brought up; possible phasing in of the corporation rate, just to name a couple. When the tax bill -- whatever of it -- is released tomorrow, will the President wholeheartedly endorse this as his plan?

MS. SANDERS: As of right now, we see no reason to feel otherwise. But until we see the details of that, I'm not going to speculate on where we are. We've laid out what our principles are, and we expect that that piece of legislation to reflect those principle. If it does, you'll certainly see the administration come in with full-throated support.

Q And lastly, on the Fed -- I know you're not going to give us a name. I'm not asking you to give us a name.

MS. SANDERS: But what If I did, wouldn't it be fun? (Laughter.)

Q Then we would love the name.

Q Come on --

MS. SANDERS: That's the most excitement we've ever gotten out of this room. (Laughter.) Sorry.

Q If you want to give us a name, we will take it. If not, my simple question is: Has the President made his decision, or is he still debating it?

MS. SANDERS: I can tell you that it's not Major Garrett. (Laughter.) But beyond that, I don't have anything to weigh in on.

go ahead.

Q President Trump, during the campaign, repeatedly castigated Hillary Clinton for not coming forward and coming clean when she got debate questions ahead of the debates. Why didn't anyone in the Trump campaign, including his son, come forward when there were solicitations from Russian agents to provide dirt on his opponent?

MS. SANDERS: I'm not sure how those two things are even remotely related, so I couldn't begin to figure out how to answer that question.

Q I'm just getting to the sense of the proactive duty to come clean when there is an ethical question. And is the President upset that people in campaign did not come clean when there were ethical questions and ethical lines being broached?

MS. SANDERS: I don't believe that to be an ethical question. That's a pretty standard campaign operating procedure.

Q Collaborating with the Russians is?

MS. SANDERS: That's not collaboration with the Russians. Sorry, Noah. I know you want it to be, but it just isn't.

Go ahead, Mara.

Q I have two questions. The first one is: You've been very clear that Trump didn't collude but Hillary did. What is your definition of collusion?

MS. SANDERS: Well, I think the exchanging millions of dollars to create false information is a pretty big indication. I think taking millions of dollars into a foundation that benefits you while making decisions that impact people that gave that money, I think those are certainly areas of collusions that should certainly be looked at.

Q And my second question is about --

MS. SANDERS: Steven. Sorry.

Q Just to follow up from Glenn. Robert E. Lee aside -- and I understand your point about how all leaders have flaws -- but what Kelly said yesterday was that an inability to compromise led to the Civil War. And back in the spring, the President said that he thinks that Andrew Jackson could have made a deal to avert the war. What is the compromise that they're talking about? To leave the southern states slaves and the northern states free? What was the compromise that could have been made?

MS. SANDERS: I don't know that I'm going to get into debating the Civil War, but I do know that many historians, including Shelby Foote, in Ken Burns' famous Civil War documentary, agreed that a failure to compromise was a cause of the Civil War. There are a lot of historians that think that, and there are lot of different versions of those compromises.

I'm not going to get up here and re-litigate the Civil War. But there are certainly, I think, some historical documentation that many people -- and there's pretty strong consensus from people from the left, the right, the north, and the south -- that believe that if some of the individuals engaged had been willing to come to some compromises on different things, then it may not have occurred.

Q Thanks, Sarah. Apropos what's going on on the Hill this afternoon, and Facebook disclosing yesterday that more than 100 million Americans were apparently exposed to what amounts to Russian propaganda, what's the White House's view of that notion, that more than 100,000 people have been reading and watching what this Russian outlet has been putting out?

And what do you make of the notion that there ought to be some kind of requirement that Facebook be required to disclose -- the way that many broadcasters are required to disclose -- when political ads are made?

MS. SANDERS: I think we need to see how this process works out over the next several days. And some of those questions are things that you're going to have to ask Facebook. That's not something that the federal government can weigh in on at this point, until the findings of that investigation and those hearings are completed.

Hallie.

Q Sarah, I'd like you to follow up on something you said earlier, but I also want to follow up on the conversation that's been happening about the slavery compromise. I'm not asking you to re-litigate the Civil War. We don't need a history

lesson on the compromises that have happened. But does the White House at least acknowledge that the Chief of Staff's comments are deeply offensive to some folks, and historically inaccurate?

MS. SANDERS: No. Because as I said before, I think that you can't -- because you don't like history, doesn't mean that you can erase it and pretend that it didn't happen. And I think that's the point that General Kelly was trying to make. And to try to create something and push a narrative that simply doesn't exist is just, frankly, outrageous and absurd.

I think the fact that we keep trying to drive -- the media continues to want to make this and push that this is some sort of a racially charged and divided White House -- frankly, the only people I see stoking political racism right now are the people in the groups that are running ads like the one you saw take place in Virginia earlier this week. That's the type of thing that I think really is a problem. And I think it is absurd and disgraceful to keep trying to make comments and take them out of context to mean something they simply don't.

Q There's a new poll out that shows that the public seems to trust many of the mainstream media outlets that the President criticizes more than they trust the President himself. Why do you think this would be? And do you think the White House agrees with that?

MS. SANDERS: I haven't seen anything to suggest that. I'd have to look into it. I certainly can't comment on some study I know nothing about and don't agree with.

Q Sarah, given some of the criticism we've heard from the President's outside advisors, is the President happy with his legal team right now? Does he feel well-represented, well-defended when it comes to the Mueller probe particulars?

MS. SANDERS: I'm not sure how he couldn't, considering -- as I said yesterday and I've repeated several times today -- all of the revelations that have taken place over the last several days and hours have nothing to do with the President, have nothing to do with his campaign. And I think the further we get into it, the more and more we see that happening.

Kevin.

Q Thank you, Sarah. I just wanted to ask about taxes and then maybe just a very quick follow on the discussion about compromise. If I'm understanding you

correctly, what you're really saying is, he's not just suggesting a compromise on slavery, he's talking about other compromises that may have been germane to that period of history. Is that fair?

MS. SANDERS: Look, I think that was part of the conversation that a lot of people have had. He didn't get into the specifics because that's something that's been discussed very widely by many historians, again, from both the left, the right, the north, the south -- however you want to look at it. And he didn't get into the details of it because it wasn't the point he was making.

Q On taxes. I just want to get a sense of what the President might really be interested in as far as the child tax credit and as far as the Obamacare individual mandate. Is it your opinion that the President would be supportive of both? Meaning, that they need to be a major tenet of the tax reform that will be unveiling this week?

MS. SANDERS: He certainly supports the childcare tax credit. I'm sorry, what was the other piece you were asking?

Q The Obamacare individual mandate. Does that have to be a part of tax reform?

MS. SANDERS: I don't believe it has to be part of tax reform, but the childcare tax credit is something he'd certainly like to see.

I'll take one last question.

Major.

Q Sarah, you said to us a few moments ago the Papadopoulos plea agreement is an example of an individual doing the wrong thing but the campaign doing the right thing -- if I remember what you said -- correct me. Does that extend to Sam Clovis encouraging George Papadopoulos to go to Russia on behalf of the campaign to solicit information?

MS. SANDERS: My understanding is there wasn't encouragement. He made multiple attempts at setting up a variety of meetings that were constantly rebuffed. He also made false statements to investigators. That's something that the campaign nor the administration would ever support. All of his emails, again, were voluntarily provided to the special counsel by the campaign, and that is how they got to the place that they're in right now.

Q Are you saying that Clovis is being misinterpreted by George Papadopoulos?

MS. SANDERS: I'm not getting into the detail of that. I'm talking specifically about the multiple attempts that he made in setting up a variety of meetings. There were more than one instance in which he tried to set up meetings that were rebuffed by the campaign. He lied about a lot of those activities, and that is the place that you, I think, see come through in the emails that were voluntarily turned over.

Q Let me ask you about one thing you said yesterday. You were asked at one point during yesterday's briefing when the President became aware that Russia was behind hacking and possession of emails. You said, "I'm not sure of the specific date of when that took place, so I'd have to look and get back to you."

MS. SANDERS: Yeah. I can respond to that now. The President was briefed in a pretty widely publicized meeting back in January. Later that very day, he said publicly that he had received the intelligence briefing and he believed Russia was behind the email hacks.

Thanks so much guys. I hope you have a happy and safe Halloween.

END

2:59 P.M. EDT



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JA 1544

James Madison Project v. Dep't of Justice
No. 1:17-cv-00144-APM

Defendants' Supplemental Submission and
Further Response to Plaintiffs' Post-Briefing
Notices

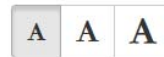
Ex. C

President Trump on the Russian Investigation and Security

BY FULL MEASURE STAFF | SUNDAY, NOVEMBER 5TH 2017



Trump Interview





Sharyl: On Russia, nobody admitted it during the campaign that we now know it was the Hillary Clinton campaign that funded that so-called dossier that had all the negative information that's unproven about you apparently in an attempt to affect the election. It was given to the FBI. What do you make of that?

President Trump: Well I think it's terrible I think it's despicable the amount of money that I hear being thrown around is ridiculous. Somebody said that this guy Steele that wrote it and we'll figure that out eventually that he paid money to the Russians. And frankly, if that was, in fact, Russia involved they don't like me very much just the opposite of what people were saying. And you know I have said over the last period of time the last person they want is me because I want a strong, strong military which I've proven in many ways and that was part of my campaign. And I also want lower oil prices and lots of oil which is not good for Russia. So I would think I would be the last one. But when you look at that horrible dossier which is a total phony fake deal like so much of the news that I read when you look at that and take a look at what's gone on with that and the kind of money we're talking about it is a disgrace.

Sharyl: The origins of the dossier supposedly is conservative funding. What does that tell you?

President Trump: Well I heard the other day that it might be and then I heard that basically they started something but the Democrats really took it up and started it and then the question is did the FBI get involved with it. And did the FBI use it. Because if they did that's a real problem for them. So we'll find out. But I have a feeling that the Democrats started it I'm sure the conservatives started something else but it was a much more mellow situation and they did say they didn't hire Steele and the phony people that worked on it.

Sharyl: Do you think Mueller is doing a good job?

President Trump: But we're going to see. Look all I can say is that I have nothing to do with Russian collusion nothing whatsoever and everybody knows it and nobody really has even been able to find you know with all of these committee meetings. They walk out even the other side they say well there's been no collusion yet but we continue to look. I've been watching this for how long has it been a year? It's very unfair. It's very bad for our country. But with all of the work that the Democrats are trying to do to obstruct and to you know false charges every time I see them walking out they're saying even Dianne Feinstein that no collusion and I respect her for saying it. I'll be honest with no collusion. But there are at these meetings and they go through documents and there is no collusion. Russia wouldn't help me. And I think the last one Russia would want to be president is me because of my attitude on oil and because of my attitude on the military and strength.

Sharyl: Do you think you would ever consider trying to have Mueller removed are you planning to stay out of that?

President Trump: Well I hope he's treating everything fairly and if he is I'm going to be very happy because when you talk about innocent I am truly not involved in any form of collusion with Russia. Believe me. But the last thing I can think of to be involved in.

Sharyl: Who wasn't you remember who convinced you to take Paul Manafort on as the campaign manager?

President Trump: Well it was a friend of mine who was a businessman very successful businessman and a good person. And you know Paul was not there very long. What people don't mention Paul was not there for a very long period of time.

Sharyl: What was it that convinced him that he had to be let go?

President Trump: Well I think we found out something about him may be involved with or with certain nations and I don't even know exactly what it was in particular but there was a point at which we just felt Paul would be better off because we don't want to have any potential conflicts. And if there was a conflict I don't want to be involved in any conflicts even though it was I could have kept them longer. I don't think anybody would have complained. But we don't want to have any potential conflicts of interest at all.

Sharyl: Have you questioned why the businessman who brought you his name do you want to say that that is.

President Trump: I don't want to get him involved he's a private person.

Sharyl: Have you questioned why he brought him to the campaign or you think that was just it just happened in a way.

President Trump: Look people don't realize Paul Manafort worked for Ronald Reagan. He worked for Bob Dole. I think the firm was involved with many people I don't have to mention names but I heard they were involved with John McCain who's an honorable guy. They were involved with many people I mean many many people. I certainly wasn't the first. This was a firm that was well known in Washington for years and represented many many big people politically speaking. And Ronald Reagan being number one. So the reputation I always felt was very good and I had him for a very short period of time you know he was only in there for a very finite period of time. But you know I feel badly for him because I was going to be really a very nice person.

Sharyl: Last question on this topic have you been told to expect to be questioned by the special counsel. Are you prepared for that?

President Trump: No. Nobody's told me. As far as I'm concerned I have been told that we were under investigation. I'm not under investigation. You know when it comes to Russia collusion. They're looking at the wrong person absolutely the wrong person. So I don't even to the best of my knowledge my lawyers told me I'm not even under investigation. I have not been told that at all.

Sharyl: On Terrorism. You've just called for an end to the diversity lottery visa that allows Sayfullo Saipov into the U.S. what would replace it what's your idea in a nutshell?

President Trump: Why don't think replace it. I think that the whole element. Are you talking about the lottery system. It's a ridiculous thing. We do we take it like a lottery like who knows who they put in there. And I guarantee you these countries they don't put their finest in the lottery system. They put people probably in many cases that they don't want. Why is this country doing it. The lottery system has to end. And what we want Sharyl we want it very badly and we want it you know as far as immigration is concerned we've been treated so badly and we've handled immigration prior to me because we have been very tough on it but we've handled immigration in the United States so poorly. We want a merit-based system

Sharyl: When it comes to Islamic extremist terrorism. Do you think Americans are safer today than they were a year ago two years ago?

President Trump: I think we are. I think that we have a much tougher vetting process. I call it extreme vetting. We are very strong with our vetting. But people can slip through. But I say as strong as we are we have to get stronger. This person came in through a lottery and not only came in through a lottery but you have this whole system where you can bring people with you chain migration it's horrible it's horrible. Somebody had mentioned he may have brought. And he only had a green card. But twenty three people may have come in indirectly or directly through him. Now I don't want those people and family members whoever they may be I don't want them and you saw what he did and you saw his evilness because they go back to the town or they go back to the area where he grew up not where he's lived even you go back to the country as I understand it. I mean this is not the kind of people we want in the United States so we have to get rid of chain migration.

Sharyl: I feel like ordinary Americans every time there's another terrorist attack or a similar pathology they start to feel helpless now that there's been tough talk for years and yet nothing concrete they can point to that will prevent another one. I think some people are actually adjusting their expectations and thinking this is our new way of life.

President Trump: I know they are in a lot of people do that. And frankly the Democrats have been absolutely terrible on immigration because they want anybody to come in. You know they obstruct make it very tough and they want on immigration and crime. I mean they want people to just pour in over the border. That's not going to happen. And we're stopping it. Now we want a merit-based system. I don't want people to come into our country but it's got to be a merit-based system and we can take that for the norm. What you just said we cannot just say oh well it's going to happen let's get used to it. We cannot allow it to happen. And we're getting I can tell you the Trump administration is getting tougher and tougher and tougher and we are now as you know looking at different forms of the wall. The wall is going to happen. The vetting is now at a point that is the toughest it's ever been and we're now going to make it even tougher. But this person this animal that did what he did in the West Side of Manhattan we just can't allow this to continue.

EXHIBIT I

THE WHITE HOUSE

WASHINGTON

June 23, 2017

Representative K. Michael Conaway
2430 Rayburn House Office Building
Washington, D.C. 20515

Representative Adam Schiff
2372 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Conaway and Ranking Member Schiff:

I write in response to the letter dated June 9, 2017, from the House Permanent Select Committee on Intelligence (Committee) requesting that the White House inform the Committee whether records exist memorializing conversations between President Donald J. Trump and the former Director of the Federal Bureau of Investigation, James Comey.

In response to the Committee's inquiry, we refer you to President Trump's June 22, 2017, statement regarding this matter: "With all of the recently reported electronic surveillance, intercepts, unmasking and illegal leaking of information, I have no idea whether there are 'tapes' or recordings of my conversations with James Comey, but I did not make, and do not have, any such recordings."

Respectfully,



Marc T. Short

Assistant to the President for
Legislative Affairs

Cc: Senator Richard Burr, Chairman, Senate Select Committee on Intelligence
Senator Mark Warner, Vice Chairman, Senate Select Committee on Intelligence

JA 1550

EXHIBIT J



Published on *Media Matters for America* (<https://www.mediamatters.org>)

Home > New DHS Senior Adviser Pushed "Mosque Surveillance Program," Claimed That Muslims "By-And-Large" Want To Subjugate Non-Muslims

New DHS Senior Adviser Pushed "Mosque Surveillance Program," Claimed That Muslims "By-And-Large" Want To Subjugate Non-Muslims

Former Florida radio host and Navy intelligence officer Frank Wuco has been serving as a senior White House adviser for the Department of Homeland Security (DHS) since President Donald Trump's inauguration. Wuco suggested in 2014 that banning visas from "Muslim nations" is "one of these sort of great ideas that can never happen"; warned that Muslims "by-and-large" will "subjugate and humiliate non-Muslim members" and enact Sharia law; and claimed that a "mosque surveillance" program is a key anti-terrorism tool.

Frank Wuco Is A Former Radio Host Who Now Works For Homeland Security As A Senior White House Adviser

Frank Wuco Is A Senior White House Adviser For Homeland Security. Frank Wuco works as a senior White House adviser for the Department of Homeland Security, according to data collected by ProPublica and his LinkedIn page. He was hired on January 20 with the grade level of senior executive service, which is reserved for those who "serve in top positions" in the federal government." [ProPublica, 3/9/17 ^[1]; LinkedIn, accessed 3/10/17 ^[2]]

Politico Noted In February That Wuco Had Joined The Administration. *Politico* wrote that Wuco is a "national security expert" who "has said in statements to the media that there's a strong connection between mainstream Islam and terror attacks." [*Politico*, 2/7/17 ^[3]]

Wuco Previously Hosted Radio Programs In Florida. Wuco worked as a radio host for Florida radio stations WFLA and WGUL and has made appearances in conservative media outlets such as Fox News and Breitbart.com. He also was a Naval intelligence officer. [The Brandon Gazette, 7/11/09 ^[4]; WFLA, 2013 ^[5]; Bloomingdale Patch, 9/13/12 ^[6]; YouTube, accessed 3/10/17 ^[7]]

Wuco As A Pundit: A "Mosque Surveillance Program" Should Be Used By "Agencies," Muslims "By-And-Large" Will "Subjugate And Humiliate Non-Muslim Members"

Wuco: "Mosque Surveillance" "Programs Are Key" To Uncovering "What's Going On" In The Muslim

Community. Wuco appeared on *Fox & Friends Saturday* in November 2015 and said that a "mosque surveillance" program is key to finding "out what's going on behind the walls" of "mosques and Islamic reading centers." He added that after the NYPD canceled its mosque surveillance program, he "can only hope that some of these programs continue with other agencies":

JON SCOTT (HOST): Back to the news. Just breaking. The State Department now confirms Americans are among the victims in the Paris terror attacks. We still do not know if they are injured or actually dead. ISIS claims the attacks were revenge for French airstrikes in Syria. Does that mean the U.S. could face the same kind of attack? Frank Wuco is the founder of Analytical Red Teams at Special Operations Command Central and U.S. Central Command. Frank, you wore the uniform of the U.S. Navy for 23 years, intelligence analyst. These are an enemy who do not wear uniforms. How do we take them on?

FRANK WUCO: Well, John, it's up to the vigilance of law enforcement agencies and everyday American citizens. Many of the attacks that have been thwarted in this country, whether a couple in the air, several on the ground, have been thwarted by American citizens who are vigilant and aware of their surroundings. I can't overemphasize the importance of a vigilant public. And also our law enforcement agencies keeping on -- and they've been doing this -- but keeping on the stayed and true skills of human intelligence, active surveillance. It makes my blood run cold when I think about Mayor de Blasio's sort of cancellation or nullification of the mosque surveillance program in and around New York City. I can only hope that some of these programs continue with other agencies.

[...]

WUCO: Well, absolutely, Tucker, and this is what I'm driving at when I talk about this outrageous act, one of his first acts in public office of Mayor de Blasio, canceling the mosque surveillance program. These programs are key. Unfortunately, when you have a group, a militant group, that hides itself under the mask of religion, we have no choice but to go to some of their gathering centers such as mosques and Islamic reading centers to find out what's going on behind the walls. [Fox News, *Fox & Friends Saturday*, 11/14/15

[8]

Wuco: "If You're A Muslim, You Believe" That "Violence And Warfare Against Unbelievers" Is "Prescribed By God." Following the June 2016 mass shooting in an Orlando, FL, gay nightclub, Wuco told Breitbart News about shooter Omar Mateen: "There's nothing radical about him at all. He is a Muslim who is following the strictures of Islam and its guidance and prescriptions for violence and warfare against unbelievers. ... If you're a Muslim, you believe it's being prescribed by God and it's being ordained by the wisdom of Muhammad." [*Politico*, 2/7/17 [3]; YouTube, 6/13/16

[9]

Wuco: "Right-Thinking" Muslims "Engage In Jihad" Because Of Their Religion. Wuco said of Islam during an interview on an internet radio program: "If you're a right-thinking Muslim, the inspiration, the motivation, to engage in jihad doesn't come from Al Qaeda, or doesn't come from *Inspire* magazine. It comes from God himself." [*The Liberty NewsCast with Willie Lawson*, 4/30/13 ^[10]]

Wuco Warned That Muslims "By-And-Large" Will "Subjugate And Humiliate Non-Muslim Members" And Enact Sharia Law. Wuco warned on his now-defunct radio show website that "Muslim populations by-and-large will become enclave societies that, first, resist assimilation and then, will make every effort to establish independent rule for their enclaves under Shari'ah law." From his radio page, via Internet Archive:

Every place we find friends, stalwarts, allies, we find the menace of jihad, which will necessarily result in violence to counter the position of a large Muslim population living under "other-than-Muslim" rule. Muslim enclaves in the UK and Canada, ahead of themselves on laboring to establish Shari'ah law for themselves, are only now beginning to experience what successive Philippine governments have faced for over a century.

While perfectly happy to subjugate and humiliate non-Muslim members of their societies (just ask Christians in Egypt or Indonesia how easy life is), Muslim populations by-and-large will become enclave societies that, first, resist assimilation and then, will make every effort to establish independent rule for their enclaves under Shari'ah law, using violence to secure what they believe to be their divinely revealed right; the eventual subsuming of all that lies outside the dar al-Islam (house of Islam), until all is within it; until all is consumed by Islam in preparation for God's final judgement of man.

Those who have made the obligation to this commitment are shockingly large in number; they have just begun; and, they believe they are active participants in God's final prescription for the salvation of all humanity. Not sure the lights inside the Beltway are on, on this one. [*Need To Know*, 2/27/10, via Internet Archive ^[11]]

Wuco Said His Preference "Would Have Been To Have Dropped A Couple Of Low-Yield Tactical Nuclear Weapons Over Afghanistan The Day After 9/11." Wuco was asked on a radio program why the United States hadn't already turned Iran and Syria "into glass already." Wuco responded: "I don't think it's been our policy really to just start nuking countries. I think if we were going to have done that, my preference would have been to have dropped a couple of low-yield tactical nuclear weapons over Afghanistan the day after 9/11 to send a definite message to the world that they had screwed up in a big way." [*The Dougherty Report*, 1/18/16 ^[12]]

Wuco: "The Assertiveness Of Muslim Communities In Western Nations Is Becoming So Pronounced. ... You Don't Even Need ISIS In Sweden." While speaking on a radio program, Wuco warned that Muslims are infiltrating communities in Western nations: "The assertiveness of Muslim communities in Western nations is becoming so pronounced. ... You don't even need ISIS in Sweden, you've got every day run-of-the-mill Muslims in massive communities protesting and becoming violent with the Swedish government, saying that they're going to take over the country. This isn't even ISIS. These are just peace-loving Muslims who have been allowed to immigrate into these countries." [*The Dougherty Report*, 1/18/16 ^[13]]

Wuco In 2014: Halting Visas From “Muslim Nations” Is One Of “These Sort Of Great Ideas That Can Never Happen.” During an August 2014 appearance on Fox News, Wuco, responding to comments from Rep. Duncan Hunter (R-CA) about a ban on visas from the Middle East, said that the proposed policy is “one of these sort of great ideas that can never happen, Brian. You're just not going to stop the visa application process into this country from Muslim nations in a blanket type of policy.”

START CLIP

REP. DUNCAN HUNTER: We shouldn't have any more visas for folks from the Middle East, from this area, coming over right now. We should say stop, time out, let's take a look at this. Slow things down so we can make sure we aren't allowing people into this country that'll then harm us.

END CLIP

BRIAN KILMEADE (Co-host): Your thoughts?

FRANK WUCO: It's one of these sort of great ideas that can never happen, Brian. You're just not going to stop the visa application process into this country from Muslim nations in a blanket type of policy. So I'm not quite sure what the congressman is talking about. There may be some details left out that weren't covered on air. But the idea of a blanket policy that doesn't allow anybody in from a country that happens to be majority Muslim is just not going to fly. [Fox News, *Fox & Friends*, 8/28/14 ^[14]]

Wuco: The NAACP And “Black Congressional Caucus” All “Need Racism” And “Will Invent It And Contrive It” If Necessary. Wuco wrote a post on his personal website -- since deleted -- attacking the NAACP and Black Congressional Caucus as groups that “need” racism and “will invent it and contrive it” when they can't find it. He pre-empted criticism by writing that his mother took action against “real racism” and noting, “She raised me. I am not a racist”:

Bottom line: The NAACP, the Black Congressional Caucus, Eric Holder, The New Black Panthers all *need* racism. And, where they absolutely cannot find it, they will invent it and contrive it. It is tough to find a better example of groups who, in absolute terms, claim to know what rests within the heart of another man.

[...]

Will Black Americans ever wake up to an NAACP, NBP, and CBC leadership that *needs* blacks (or “coloreds,” as the NAACP, in classic *racist* fashion, calls Black and/or African American people) to remain disadvantaged and in continuous need of support, assistance, entitlements, and benefits to survive? When will you throw the NAACP off and tell them you don’t need them anymore? You don’t need the NAACP! You don’t. There is hatred everywhere. It can only be risen above with self-respect and love of others. As long as the NAACP, the CBC, and the NBP remain in business, hatred will not only exist, it will be cultivated, invented, contrived and fabricated where it does not, lest these groups find no cause or need to exist or be adored and validated by their constituents. The fact that a race-based caucus even exists in the 112th Session of Congress is shameful for the Congressional Black Caucus. I bristle at their arrogance every time I see them walk out of a vote in unison with Nancy Pelosi (oddly walking out front... racist?) among them as though even the CBC needs her validation and support. Users, all. Users on the backs of those for whom they claim to caucus. Shame on and groups like them for perpetuating the myth that humans must run in packs to survive. This nonsense that people are so inherently racist that they don’t even know it must end. It impoverishes and kills more people than any other human behavior. It causes wars. Shame on The New York Magazine for even giving this thesis (feces is more like it) the credit it so does *not* deserve, proffering that Mitt Romney is such a secret racist that even he does not know he’s a racist.

[...]

Back to the fake racism issue that started this piece in the first place, when I was a kid my mom kept a cuss-can in the house. Each curse-word earned a different “fine” according to its severity. The dreaded “F-word” (as we called it back then), if one was careless enough to utter it in earshot of mom (which was anywhere within the walls of our home) came with not only the highest monetary fine, but was accompanied by some form of corporal punishment. One time a friend of my older brother asked mom, “What is the fine if I say the “other word” for black people?” (the phrase the “N-word” back then, because honestly even it was considered too close to the edge of the real N-word). Mom replied, “The fine for that word is you leave my house and you never come back.” Anyone who knows my mom knows the warning was delivered with a facial expression and a tone that made the idiot kid’s blood run cold. My mom grew up in hard times in rural Ohio; The

Great Depression, World War II, that sort of thing. Additionally, my mom grew up with real racism. As a teenager, she worked in a soda shop. A black female co-worker at the soda shop became fast friends with my mom. The girl, because she was black, was not allowed to touch any of the food items in the shop because the owner said no one would want to eat food or drink sodas and shakes that had been touched by a "colored" person. One busy day, my mom (in a wholly unauthorized move) asked her friend to help out with prepping some food items. When the owner found out. He made my mom wipe down with bleach, everything that her black friend had touched. My mother quit in disgust. Was she a hero? No, not really. She was (and is) just a decent person who did the right thing. She saw real racism and hatred up close and was appropriately rattled and forever changed by it. She raised me. I am not a racist. [FrankWuco.com, 7/15/12, via Internet Archive ^[15]]

Wuco Suggested He Viewed Obama As "An Empty, Soulless, Satanically Susceptible Shell Of A Human Being" Who Was Having His Strings Pulled By George Soros. Wuco wrote on his now-defunct radio show blog:

By Obama: It could be that it actually dawns on the President that his supposed brilliance (which he seems to have bought into at a very young age and to which he still arrogantly adheres) means NOTHING to those who see him as nothing when compared to what THEY KNOW to be God's own plan for humanity. Why should they rid themselves of a program that will accelerate God's reign on earth to satisfy a human who does not even possess belief in God or know who he is... A nobody; an empty, soulless, Satanically susceptible shell of a human being. This is not necessarily how I view Barack Obama (though upon this edit, it reads pretty close), but I can assure you it IS how Iran's theocratic leaders see him, no doubt. We can only hope that Obama and his string-pullers, like George Soros, are more devout globalists and Marxists, than they are secret Muslims and sympathizers with those who supposedly feel torn to the depths of their very souls over the CIA's 1953 overthrow of Iranian leader Mossadeq (a favorite assumption of deep D.C. thinkers who pine for an Islamic Revolutionary success story). Yes, let's hope that it finally dawns on Obama that Khamenei, Ahmadinejad, and Soleimani think he's a joke of a leader and they continue to ignore him and his string-pullers. This could lead Obama to the rage that affects all leaders who secretly view themselves as demi-Gods; a rage that causes such leaders to lash out at those who do not regard them as highly as they regard themselves. As an act of ego, Obama may take corrective action; that which sees to it that upstart Religion-and-Weapons-Clingers like Iran, do not derail Soros', Fox-Piven's, and Ayer's plans for a global socialist solution. Then, once it dawns on Obama that Iran's leaders, like UBL, al-Awlaki, Mubarak, and Qadhafi before them, just aren't with the Soros/Fox-Piven/Ayers/Obama program (or that they can be sacrificed just to get the rest of the world on board), Iran's Islamic Revolutionary leaders and their nuclear ambitions may just have to go. Religion-and-Weapons-Clingers like Iran cannot get too big for their britches after all. Soros has bigger fish to fry, like the United States that saved him. [WFLA, 11/16/11, via Internet Archive ^[16]]

Posted In

Diversity & Discrimination ^[17], Religion ^[18], Government ^[19], National Security & Foreign Policy ^[20]

Person

Donald Trump ^[21]

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Links

[1] <https://projects.propublica.org/graphics/beachhead>

[2] <https://www.linkedin.com/in/frank-wuco-5288921/>

[3] <http://www.politico.com/tipsheets/morning-shift/2017/02/showdown-over-trumps-travel-ban-218608>

[4] http://www.thebrandongazette.com/index.php?option=com_content&view=article&id=233:need-to-know-with-frank-wuco-71109&catid=41:articles&Itemid=64

- 12/4/2017 New DHS Senior Adviser Pushed "Mosque Surveillance Program," Claimed that Muslims "By-And-Large" Want to Subjugate Non-Muslims
- [5] <http://970wfla.iheart.com/media/play/23333861/>
 - [6] <http://patch.com/florida/bloomingdale/introducing-frank-wuco>
 - [7] https://www.youtube.com/results?search_query=%22frank+wuco%22
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EXHIBIT K

Mother Jones

A Fake Jihadist Has Landed a Top Job at Homeland Security

Frank Wuco, who has role-played as a terrorist, is in charge of implementing executive orders.

NOAH LANARD NOV. 1, 2017 6:00 AM



Screenshot of Frank Wuco, the senior White House adviser at the Department of Homeland Security, in a video dressed as his jihadist alter-ego Fuad Wasul. **Larry Willette/Vimeo**

Donning a round Afghan pakol hat and a keffiyeh scarf, the bearded man speaks straight into the camera. “This is message for the American devils,” Fuad Wasul declares in thickly accented English. “The enemies of Islam always ask the mujahedeen, like me, ‘Why is that we’re make jihad?’...We’re make jihad for to prepare the final earth judgment day of Allah!”

The gun-slinging man is not a terrorist. His Arab accent is fake. And the person pretending to be him, Frank Wuco, is now in charge of implementing the president’s executive orders at the Department of Homeland Security.

Since January 21, Wuco has served as the White House senior adviser at DHS. His job is to make sure the White House is aware of and able to support “Secretary-level activities,” according to DHS. Since April, he has also led the department’s Executive

Order Task Force, *Mother Jones* has learned from a DHS employee list obtained through a Freedom of Information Act request.

Tyler Houlton, a DHS spokesman, confirmed Wuco's role and called him a "valuable member of the DHS team." Houlton said the task force was set up to ensure that the "myriad specified and implied tasks derived from the President's 14 Executive Orders" issued so far are implemented quickly. Those orders have included bans on travelers from some majority-Muslim nations.

Prior to joining the administration, Wuco made a career of advising military officials and concerned citizens about the mindset of a violent jihadist. To do so, he often took on the persona of Wasul, giving speeches in which he explained why he believes extremism is consistent with the Koran. He has also spread his views about Islam through his own blogs, two Tampa Bay radio shows he hosted, and occasional appearances on conservative television stations. (Most of his blog posts are no longer on the sites but can be accessed through the Internet Archive.)

Along the way, Wuco has waded into other culture wars—charging the "race and disadvantage hawkers" at the NAACP with inventing hatred and arguing that allowing "admitted homosexuals" to join the military would pose problems in the shower room. Throughout, Wuco has said he is not Islamophobic, racist, or homophobic.

Wuco's record contrasts with the no-nonsense style of Kirstjen Nielsen, Trump's new nominee to run the department. In May, when John Kelly—now Trump's chief of staff—ran DHS and Nielsen was his top aide, *Politico* reported that Wuco had clashed with Kelly and his staff. Whether Wuco is pushed out after Nielsen is confirmed by the Senate could be an early sign of whether she plans to reshape the department in her own, more pragmatic image.



Frank Wuco's official Department of Homeland Security photo. Courtesy: DHS

After retiring from a 23-year career in naval intelligence in 2004, Wuco began advising US Central Command, which oversees military operations in the Middle East, on how Islamic militants see the world. While at CENTCOM, Wuco worked under Michael Flynn, who later became Trump's national security adviser but was forced to resign in February after it came to light that he'd lied about his contacts with the Russian ambassador. In a 2016 radio interview, months after Flynn had written on Twitter that "Fear of Muslims is RATIONAL," Wuco said his old boss was "extremely grounded." Wuco has said that to advise the military, he put himself through a recruiting cycle "similar to what a jihadist would experience." DHS did not respond to questions about what the recruiting cycle entailed and whether Flynn recommended him for a job at DHS.

More recently, Wuco has made a name for himself at the fringes of right-wing media. He has appeared on Fox News and Steve Bannon's *Breitbart* to discuss terrorism, but he has mostly blogged on FrankWuco.com and hosted the *Frank Wuco Radio Show* for a Tampa Bay station. His guests have often been fellow critics of "radical Islam." One of Wuco's guests on his show was Robert Spencer, whom the Southern Poverty Law Center, a civil rights group that tracks bigotry, describes as "one of America's most prolific and vociferous anti-Muslim propagandists." Wuco called Spencer a "good friend" and one of the "bravest intellectuals" he knows.

While advising the military, Wuco created Wasul, the fictional terrorist whose "model behavior" led him to be released from US custody so that he could tour the United States to talk about jihad. Wuco has role-played Wasul for thousands of military

officials and concerned citizens. One video shows Wuco wearing both an orange jumpsuit and mujahedeen regalia, while others show him dressed as a civilian.

Wuco, speaking as Wasul, also hosted a radio segment called “Ask the Jihadist.” Before each episode, listeners were advised not to call the authorities on Wasul. Nevertheless, the first caller on one episode, identified as Ms. Anna, had to be cut off after she threatened to buy a gun, presumably to shoot Wasul. On another episode, Wasul berated a Muslim caller for not adhering to his extreme views. After Wasul stopped talking, Wuco would often pretend he had been in another studio listening to Wasul’s remarks, which made him want to land a bullet “right between” Wasul’s eyes.

A video of Frank Wuco playing Fuad Wasul. Credit: Larry Willette/Vimeo

At DHS, *Politico* reported in May, Wuco started out as one of the “chaperones” installed by the White House to keep an eye on Cabinet departments. Some Cabinet secretaries were reportedly annoyed by this meddling. A source close to Kelly told *Politico* that Wuco “knows nothing about” DHS’s mission and “serves little purpose or value.” The source added that “dysfunction with personnel keeps these types of folks there.”

Before Wuco joined the Trump administration, his writings described what he saw as the impending war between the West and Islam. A post on the website for his radio show *Need to Know!* claimed that while Muslims were “perfectly happy to subjugate and humiliate non-Muslim members of their societies,” Muslims in the West were more likely to create enclaves governed by Shariah law. After establishing those bases, they would seek to take over the world. (Wuco appears to have been the author of the unsigned posts on the blog, but DHS did not respond to requests to confirm that. Posts on FrankWuco.com included his name.)

Before that attempted takeover began, Wuco believed Sunni and Shiite Muslims would enter a battle of world historical proportions. In 2012, he wrote that as tragic as the looming Islamic war “may sound and look on our television screens as the human suffering mounts, it is inevitable.” He also thought the war was in the United States’ best interest. Once the factions exhausted their “treasure, energy, and blood,” the United States could defeat the winner. After at least 30 Taliban fighters were killed while attacking a US Army base in 2010, Wuco’s site labeled the news a “WARGASM!”

In the battle with the West, Wuco suggested, terrorism would be consistent with Islamic scripture. After a plot to kill the Pope was foiled in 2010, his website cited two suras, or chapters, from the Koran to explain the plotters’ motivation. In the aftermath of the Pulse nightclub shooting in Orlando last year, Wuco told *Breitbart* there was “nothing radical” about the shooter. “He is a Muslim who is following the strictures of Islam and its guidance and prescriptions for violence and warfare against unbelievers,” he said.

Wuco recommended, in one of the posts still left on his site, that young people traveling to Europe, New York, or Los Angeles avoid any places with large groups of people. “Uncle Frank’s” other safety rules included sticking to areas with armed law enforcement officials, immediately asking hotel staff for threat advisories, and abstaining from excessive drinking. Remember, Wuco warned, “an Islamist could care less” about your lefty political views, “THEY STILL WANT TO KILL YOU.”

When a terrorist plot was uncovered in 2010, his site cheekily pointed out that the bearded suspect was “not Amish.” Another apparent attempt at humor: a caption below a photo of Anwar al-Awlaki, a US citizen and extremist cleric who was killed by a US drone strike in Yemen, that read, “Is that a jambiya [Arabic for dagger] between your legs, or are you just excited at the thought of pickin’ up ho’s ... ?”

Remember, Wuco warned, “an Islamist could care less” about your lefty political views, “THEY STILL WANT TO KILL YOU.”

His writings on other topics were similarly inflammatory. When Mitt Romney drew accusations of racism for saying NAACP members should vote for Barack Obama if they wanted “more free stuff,” Wuco responded on his website, “The NAACP, the Black Congressional Caucus, Eric Holder, The New Black Panthers all need racism. And, where they absolutely cannot find it, they will invent it and contrive it.” Citing progress on race relations, Wuco added that he found it “shameful” that the Congressional Black Caucus still existed. “I bristle at their arrogance every time I see them

walk out of a vote in unison with Nancy Pelosi,” he wrote. Wuco wrapped up the post by saying his mom had no tolerance for the “N-word” and quit a job in protest of how a black coworker was being treated. “She raised me,” he wrote. “I am not a racist.” Wuco similarly claimed that his opposition to letting openly gay people serve in the military was not rooted in homophobia. He wrote that it was “not paranoia” for straight people to be uncomfortable with undressing or showering in front of people who might be attracted to them.

In July, George Selim, the leader of DHS’s anti-extremism efforts and a conservative Republican who had worked for the Bush administration, resigned.* Since leaving, Selim has made clear that he was not forced out. Still, he told *The Atlantic*, “There were clearly political appointees in this administration who didn’t see the value of community partnerships with American Muslims.” Eric Rosand, a former State Department official who worked with Selim on an interagency project to combat extremism, says Selim fought for as long as he could before DHS became “too toxic.”

There are signs that DHS has become more aligned with Wuco’s views. In February, Reuters reported that the Trump administration wanted to rename DHS’s “Countering Violent Extremism” program, which focuses on all forms of radicalism, to something along the lines of “Countering Islamic Extremism.” The name change hasn’t happened, but the new emphasis on battling Islamic extremism is clear. In June, DHS rescinded a grant for fighting white nationalism, along with nearly \$400,000 in funding for the Muslim Public Affairs Council, a nonprofit that seeks to create more “humanizing” portrayals of Muslims.

If part of Wuco's job is assessing security threats in implementing Trump's latest travel ban, his past analyses suggest how he might go about that. In 2011, after a right-wing terrorist killed 77 people in Norway, Wuco said on his radio show that he initially assumed the shooter was Muslim. He said he was "disgusted" by the Muslim American groups pointing out that Islam played no role. They should be grieving, he said before breaking into fake tears to mock their response to being falsely accused.


The next year, Wuco took to his blog shortly after a dozen people were killed at a midnight screening of *The Dark Knight Rises* in Aurora, Colorado. "The shooter has not yet been identified," Wuco wrote. "Several suspicions come to mind; all of them so obvious that I will avoid the rush to lay them out there. There will be little pride to find in stating the obvious possibilities." He added that the situation was "eerily similar" to Brad Thor's novel *Full Black*, which features a Muslim terrorist who blows up a crowded movie theater.

In the real world, the shooter was already in police custody. His name was James Eagan Holmes. He was not Muslim. Two days later, Wuco discussed the tragedy at the beginning of his show and then moved on. He said he didn't want to politicize the attack.

Correction: An earlier version of this article misstated George Selim's religion. He is Catholic.

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11/14/2017

A Fake Jihadist Has Landed a Top Job at Homeland Security – Mother Jones

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EXHIBIT L

THE
NEW YORKER

NEWS DESK

HOW STEPHEN MILLER SINGLE-HANDEDLY
GOT THE U.S. TO ACCEPT FEWER REFUGEES

By Jonathan Blitzer October 13, 2017



Officials describe Miller as a savvy operator who is the beneficiary of a dysfunctional and understaffed Administration.

Photograph by Jabin Botsford / The Washington Post via Getty

In 1980, the year that Congress passed the Refugee Act, the U.S. accepted more than two hundred thousand refugees. The law created a robust program for accepting people who had been displaced by war and strife, and made refugee policy a new tool of American foreign policy, improving the country's standing with foreign allies and helping the military and intelligence communities find partners in conflict zones. Since

then, the mandated refugee “cap” set by the President has fluctuated; during the Obama Administration, it averaged seventy-six thousand, and, in 2017, Obama raised the cap to a hundred and ten thousand to allow in more Syrians fleeing civil war. Then came Donald Trump. In January, he signed an executive order temporarily freezing the refugee program, barring all Syrians, and slashing the number of refugees allowed into the country for the remainder of the year. Late last month, the White House announced that next year’s cap would be forty-five thousand, a record low. The State Department, the Defense Department, the Joint Chiefs of Staff, the Office of the Vice-President, and the Office of Management and Budget had wanted the number to be higher. But they had all been forced to compete with one influential White House official: Stephen Miller, the thirty-two-year-old former aide to Jeff Sessions who has become Trump’s top immigration adviser.

I recently spoke to four Administration officials involved in the refugee-cap process to try to understand how Miller was able to outmaneuver an array of powerful factions in the federal bureaucracy. Each official described Miller as a savvy operator who understands how to insert himself into the policy-creation process. They also described him as the beneficiary of a dysfunctional and understaffed Administration. Miller hadn’t completely gotten his way on the refugee cap, they told me; he wanted it to be lower. The forty-five-thousand figure—which past Administrations would have considered impractically low—amounted to a kind of compromise.

Miller, who has gone from the political fringe to the White House on the strength of his reputation as an anti-immigration ideas man, joined the Trump campaign early. He is close to both the President and his son-in-law, Jared Kushner, and has had a direct hand in several of the Administration’s most significant immigration decisions, including the travel bans and the cancellation of Deferred Action for Childhood Arrivals (DACA). “He’s been thoughtful and low-key about overtaking the policy-making process,” one White House official told me. “That’s the reason he survived.”

The chain of events that led to the announcement of the new refugee cap began on June 5th, when Miller met with officials from the State Department, the National Security Council, the Department of Homeland Security, and a policy group called the Homeland Security Council. Every summer, the State Department and the N.S.C. lead a series of discussions to decide the next year’s cap. Officials weigh dozens of different

considerations, solicit input from the various stakeholder agencies, and ultimately bring a number to the President for his approval. The process is technical and exacting, a months-long slog through meetings, position papers, and constant recalibrations. Miller's presence at the June 5th meeting itself was unusual: he heads the Domestic Policy Council, a body staffed by political appointees, which had never before played a role in refugee policy.

"We know how this used to go in the past," he told the officials in the room. "But we also know that the President views this as a homeland-security issue." Everyone understood the significance of Miller's words. "Miller basically made clear that it was not going to be looked at from the typical lens of foreign policy," a second White House official told me. "It was a domestic-policy issue, an immigration issue. The Department of Homeland Security was going to get involved."

Miller introduced the officials to Gene Hamilton, another former aide to Sessions, whom the Administration had installed at D.H.S. This year, Miller and Hamilton explained, D.H.S.—not the State Department—would present the refugee-cap number to the President. Hamilton would be Miller's key ally in the process. "They were in direct and constant contact," the second White House official told me. "If there was ever a question you had for Hamilton, he'd say, 'Hold on,' and call Miller." According to the first White House official, "It was clear that there was some precooked plan here."

Miller's presence was felt immediately. Records of the June 5th meeting, known as a "summary of conclusions," were kept from circulating. Stakeholder agencies—including the Joint Chiefs, the Defense Department, the U.S. Mission to the United Nations, and the Office of Management and Budget—were left out of subsequent meetings. These meetings are an "art form" and "highly scripted," one of the officials told me. "This was highly unusual. They were convening people without anyone knowing what the subject of the meeting was." (The White House claims that Miller did not coordinate these meetings.) After one meeting, in August, N.S.C. and State Department officials expressed concern that representatives from the Department of Defense, the National Counterterrorism Center, and the F.B.I. were still missing from the discussions. Hamilton responded, "What the hell does D.O.D. have to say about this?"

When evidence emerged that didn't suit Miller's aims, he squelched it. In March, the White House had asked the Department of Health and Human Services to study the costs of refugee resettlement. The department returned with a study, in July, showing that the revenue generated by refugees in the form of local, state, and federal taxes exceeded the costs of resettling them by sixty-three billion dollars. According to the *Times*, Miller suppressed the study and demanded that H.H.S. recalculate the numbers. Two of the White House officials told me they'd heard that Miller had given H.H.S. strict instructions at the outset. "The President believes refugees cost more, and the results of this study shouldn't embarrass the President," he had told people at the agency. (The White House denied that Miller was involved with the H.H.S. report.)

"He shut down the U.S. government's democratic approach to decision-making," a State Department official told me. "He suppressed evidence that was important to consider in determining a refugee number that would be beneficial to our national-security interest. We're not talking about reports written by outside groups. We're talking about evidence being generated from within the federal bureaucracy, documents generated from within the government." Miller and his team at the Domestic Policy Council heavily edited several discussion papers outlining policy considerations, according to one of the White House officials. Statistics were cherry-picked. "We'd get them back from D.P.C., and they were eighty-five-per-cent different," the official said, referring to papers generated by the N.S.C. staff. "D.P.C. would just sit down and write their own paper. They put in a lot of spurious statistics. Things like: refugees are thirty times more likely than the general population to commit a terrorist act." According to the official, many of the statistics Miller's team favored came from the Center for Immigration Studies, an influential anti-immigration think tank. (The White House denied that Miller had a role in editing policy papers.) When officials pushed back against these kinds of changes, Miller would point to the backlog of asylum cases at D.H.S. and argue that the refugee program was unsustainable. All four officials believed this argument was disingenuous. "This was a manipulation to get the result he wanted," one White House official told me. "He basically just had a political agenda: to limit the number of foreign nationals who come into our country."

I asked the officials how Miller, with his limited experience in the executive branch, had become such a formidable bureaucrat so quickly. "Look at who the senior advisers to the President were and are—Bannon, Kushner—Miller's the only one with prior

government experience,” the State Department official told me. “He knows something about government, and it turns out to be useful. He saw how the sausage was made. And he’s smart enough to make his own sausage.” The chaos of the Trump Administration helped. “The White House remains in utter disarray,” the official said. “If you don’t have an established set of procedures in place, it’s very easy to create your own process.”

The leaders of the two agencies whose roles Miller was minimizing—the N.S.C. and the State Department—showed little interest in fighting back. H. R. McMaster, the national-security adviser, wasn’t paying much attention—one of the officials described him to me as “frustratingly M.I.A.” At the State Department, the disconnect between leadership and staff was even worse. “We don’t have a secretary for all intents and purposes,” the State Department official said, in reference to Rex Tillerson. “Normally, you tell your superiors if you have a problem, and they go to the White House. No one is defending the State Department.”

In early September, officials at the State Department and N.S.C. were told that the Department of Homeland Security was ready to propose to the President that next year’s refugee cap be between fifteen thousand and twenty-six thousand people. Officials at the other government agencies involved in the process balked. “If we go below fifty thousand, we won’t satisfy the optics that the program was designed to generate, and that functionally hurts national security,” one White House official told me. “We look scared.” Miller and Hamilton weren’t swayed by the arguments, but when Elaine Duke, the interim Secretary of Homeland Security and Hamilton’s boss, insisted that the number couldn’t be lower than forty thousand, they were forced to retreat. (The White House disputed this account.)

Putting up a modest resistance, the State Department proposed a cap of fifty thousand. “People felt beleaguered and betrayed,” the official there told me. Trump’s original travel ban, in February, had set fifty thousand as a provisional cap for the current fiscal year. “It was seen as a politically safe number to use absent help from the Secretary.” Several other agencies—including, notably, the Office of the Vice-President—formally registered support for the State Department’s number. But in making the discussion about the range between forty thousand and fifty thousand, Miller had already succeeded in shifting the debate. “By the time we talked about splitting the difference,

we were already two-thirds lower than where we were previously,” the State Department official told me. “We’d gone from a hundred and ten thousand”—which President Obama had set for the current year—“to around forty thousand, with no evidence to support the decision. It was purely political. The process has never been this corrupt.”

In mid-September, Tillerson lowered the State Department’s desired number from fifty thousand to forty-five thousand. The State Department official said the Secretary’s staff was surprised. “He undercut his deputy,” the official said. “He undercut the recommendation of the staff. He broke with every other federal agency except D.H.S.” The other agencies had all previously said they would back the State Department, so forty-five thousand was the only number that went to the President. “The President would never know that almost all of his Cabinet wanted a higher number,” one of the White House officials told me.

One of the White House officials I spoke to described the process as a harbinger of how immigration issues will be handled in the future. “The Domestic Policy Council is going to influence other processes that involve immigration,” the official said. “It’s going to get worse and worse.” Miller was expanding his influence. “He’s figured out early on that, just being at the D.P.C., he’s not going to be able to make key decisions unless he co-opts the N.S.C.,” the official went on. “He needs the security element attached to it. He’s worked to get himself in traditional N.S.C. decisions so that he can say, ‘This isn’t just me. We ran this by the N.S.C.’ It started with one or two issues. But it’s becoming anything that has to do with refugees, vetting, immigration, or security. Because he’s an assistant to the President, what person is going to say to him, ‘No, you can’t sit in on my meeting.’ The reason Stephen Miller is so dangerous? He’s clearly got a vision. He knows about narrative, about messaging. He’s figuring this out.”



Jonathan Blitzer is a staff writer at The New Yorker. [Read more »](#)

Video

The Underground University That Won't Be Stopped
In Georgia, undocumented immigrants, who are banned from the top public universities, have a school of their own.

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12/4/2017

How Stephen Miller Single-Handedly Got the U.S. to Accept Fewer Refugees | The New Yorker

EXHIBIT M

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U.S., Cuba Fail to Reach Accord on Immigration

July 10, 1986 | Associated Press

WASHINGTON — Cuban and U.S. officials, after meeting in Mexico City for two days, failed to reach agreement on renewal of an immigration agreement suspended last year, the State Department said today.

The talks, held in Mexico City on Tuesday and Wednesday, stemmed from Cuban indications that they would be willing to restore a 1984 agreement that provided for repatriation to Cuba of criminals and mental patients who came to the United States since 1980 and resumption of Cuban immigration to the United States.

Cuba canceled the agreement in May, 1985, when Radio Marti, a U.S.-sponsored radio station, began beaming broadcasts to Cuba. According to reports of this week's negotiations, the Cubans were willing to drop their demand that Radio Marti cease operations if the United States granted Cuba a radio frequency it could use to beam programs northward.

State Department spokesman Bernard Kalb said the talks failed because Cuba "insisted on major and disruptive changes in the organization of radio broadcasting in the United States."

"In view of Cuban insistence on their own proposals, no agreement was reached," Kalb said.

He gave no details of the talks, which were carried out by Michael G. Kozak, the department's principle deputy legal adviser, and Ricardo Alarcon de Quesada, the Cuban deputy foreign minister.