

Putin, Trump and Democracy's Slippery Slope Toward Oligarchy



 **Common
Cause**

Education Fund

Acknowledgments

The Common Cause Education Fund is the research and public education affiliate of Common Cause, founded in 1970 by John Gardner. Common Cause is a nonpartisan, grassroots organization dedicated to upholding the core values of American democracy. We work to create open, honest and accountable government that serves the public interest; promote equal rights, opportunity, and representation for all; and empower all people to make their voices heard in the political process.

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Introduction

Americans are more united than those who benefit from division want us to believe. Republicans, Democrats, and Independents largely agree that registration and voting should be secure, modern, and convenient, and that all eligible people should be encouraged to vote. As voters, we recognize that the more people who participate in our elections, the better it is for our democracy, making it more likely that the representatives who are elected will listen to the people.

While Americans across party lines aspire to move closer to a government that is truly of, by, and for the people, they are equally clear that that is not the state of our democracy today. In fact, Americans are largely united in believing that government isn't listening to the people and is badly broken and in need of repair. A pervasive cynicism about the polarized nature of our politics leaves many feeling hopeless.

The 2016 campaign for president was one of the most expensive and most divisive elections in history. One year later, with the very foundations of our democracy under direct attack from the Trump Administration, we are only starting to get a clear picture of why. In what the intelligence community and national security experts called a classic KGB propaganda operation, Russians loyal to President Vladimir Putin used social media outlets like Facebook and Twitter to reach

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nearly one-half of the American electorate, with posts intended to play on people's emotions, provoking more extreme rhetoric on the political left and right. Much of the Russian influence campaign was based completely on lies but fanned the flames of extremism, further dividing the nation, influencing the election, and creating a climate in which the most unlikely outcome became reality: President Donald J. Trump.

Putin's purpose? Destabilize our democracy and prove to the world that America, and western democracies more broadly, are more vulnerable than suspected. Putin created global confusion to attempt to reassert Russia's long-lost status as a superpower.

As the Office of the Director of National Intelligence made clear in a declassified report after the election, "Russia's goals were to undermine public faith in the US democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency. We further assess Putin and the Russian Government developed a clear preference for President-elect Trump."

The issue of foreign meddling in our politics is as old as our nation, and drove much of what the framers created in our system of checks and balances and by vesting the power to constitute a government in the people's vote – the consent of the governed. As Americans strain to digest the daily headlines and the overheated rhetoric in the unfolding story of Russia's interference in the 2016 election, a little history may be helpful.

The Polish-Lithuanian Commonwealth was distinctive among 18th century European kingdoms: it was an elective monarchy. After a king's death, a national Diet assembled to choose a successor. This system functioned until Catherine the Great, who as Empress of Russia lacked the weaponry now at Vladimir Putin's disposal but

enjoyed authority rivaling his, spent more than 2.5 million rubles in 1763 to influence the electors and place her former lover, Stanisław Ponia-towski, on the throne.

He was the last King of Poland. As his kingdom crumbled, a gathering of American statesmen met nearly 7,000 miles away in Philadelphia to debate how they might save their young country from the same fate.

The framers of the U.S. Constitution were acutely aware of the potential weaknesses of the new system of government they were establishing. They challenged each other on how the new federal government would meet future threats, including the threat of foreign interference. They knew an elected government could be in danger from British, French, and yes, Russian actors. Charles Pinckney cautioned that, unless sufficient measures were taken to protect the integrity of presidential elections, "In not many years, the fate of Poland may be that of United America."¹

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Pinckney’s warning has special resonance in the wake of the 2016 election. Speaking with high confidence, the U.S. intelligence community con-

cluded in January that Putin’s Russia aimed to undermine public faith in the American democratic process, denigrate Democratic candidate Hillary Clinton, and support the candidacy of now-President Donald Trump.²

Russia-backed hackers stole tens of thousands of documents from the Democratic National Committee and Clinton campaign chairman John Podesta, carefully timing their release via WikiLeaks to achieve maximum political damage.^{3,4} Separate operatives launched cyberattacks on American voting infrastructure, purchased illegal political advertisements, and conducted an ambitious propaganda campaign on social media. Meanwhile, Donald Trump implored, “Russia, if you’re listening, I hope you’re able to find the 30,000 emails that are missing. I think you will probably be rewarded mightily by our press.”⁵ He also praised WikiLeaks for releasing emails that

it may have obtained from Russian hackers, and continues to dismiss the intelligence community's conclusions of Russian responsibility.⁶

A year after Trump's upset victory, as a special counsel's investigation of Russia's activity yields its first indictment and conviction, it's clear that democracy in America still has vulnerabilities. This report examines some of those vulnerabilities, along with the challenges of and the progress made toward addressing them.

Executive Summary

The Russian interference in the 2016 presidential election provides a window into the vulnerabilities in America's democratic institutions.

- Russian-affiliated hackers attempted to infiltrate at least 21 states' election infrastructure. While officials insist there's no evidence the hackers altered vote totals, it's clear that voter registries and voting machines remain far too exposed to outside interference. Citizens' information must be protected, and states must adopt auditable voting methods that ensure election results are sufficiently secure.
- Campaign finance law insufficiently guards against the use of foreign money to influence elections, especially online. Russians spent at least \$100,000 on Facebook political ads, but it is impossible to know how much. New legislation is needed to regulate political advertisements distributed via social media and other internet platforms.
- Russian "troll factories" conducted a vast propaganda campaign to create and distribute fake news to a wide American audience. Meanwhile, President Trump has lashed out against reporters and stories he dislikes, threatening the democratic principle of a free press.
- Despite the Constitution's prohibition of his acceptance of foreign emoluments, the president continues to profit from his office, gaining unknown sums from foreign governments. His decades of pursuing business in Russia contradict his claims to have no dealings in the country.
- Most of Trump's predecessors have kept the Justice Department at arm's length and used their pardon power sparingly, but Trump shows little respect for those traditions. He has consistently acted to hamstring independent investigations into Russian interference and his own allies' involvement.
- Despite a halting start, the people and institutions entrusted with running our elections are increasingly aware of and responding to this threat to our democracy.

Election System Security

"The Ministers of foreign powers would have and would make use of, the opportunity to mix their intrigues and influence with the Election. ...It will be an object of great moment with the great rival powers of Europe...to have at the head of our Government a man attached to their respective politics and interests." – James Madison⁷

Russian Hacking Efforts.

Russian attempts to hack U.S. election systems began well before 2016. In 2008, for instance, Russian-affiliated agents hacked computers used by the Obama and McCain campaigns.⁸ During its invasion of Ukraine, Russia effectively used that country as a staging ground for experiments in cyberwarfare: Russian infiltrators accessed and disrupted Ukrainian media, finance, transportation, military, and politics.⁹ They even managed to access the electric grid and repeatedly cut power to sections of the country for hours at a time.¹⁰

Well-practiced from those attacks, Russian hackers grew bolder in probing American networks. A former White House cybersecurity director noted a change starting in 2014. Before then, Russian hackers tended to disappear once they were detected; afterward, "you'd find them in networks, and they'd stay, almost like they were taunting us. They became much more aggressive."¹¹

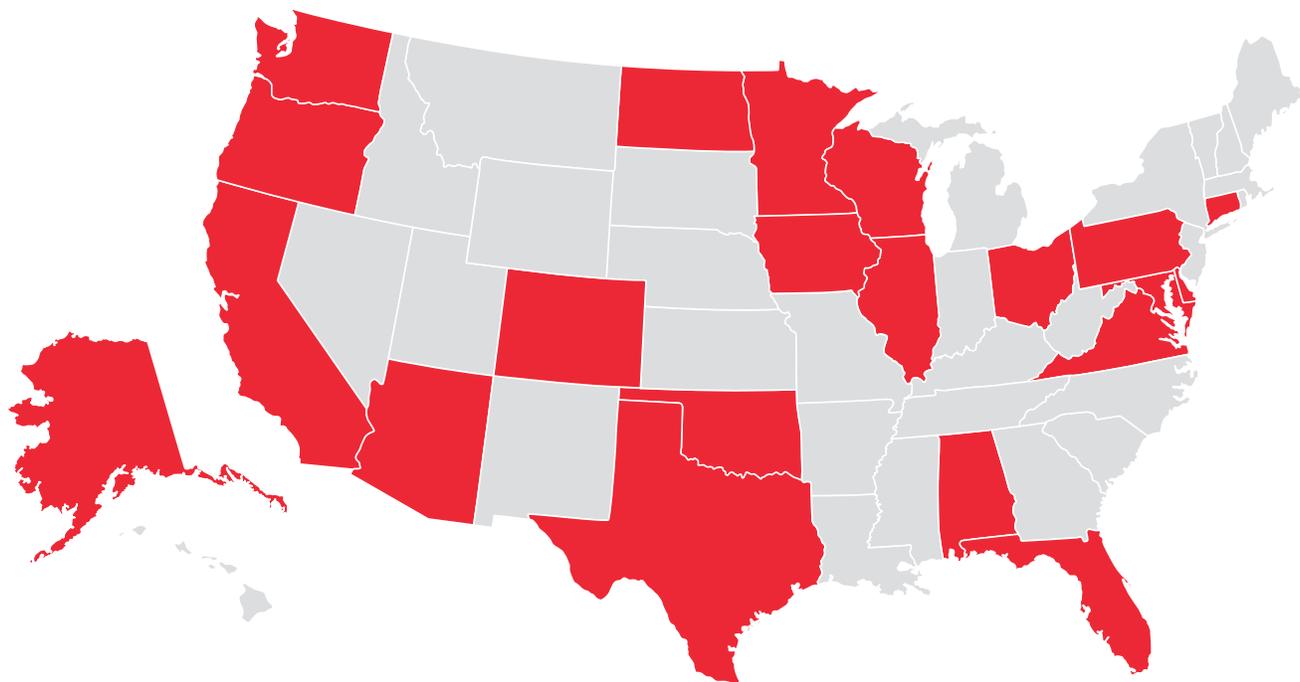
During the 2016 California primary, local election officials saw a spike in voters complaining about issues with their registrations. An investigation revealed that unknown hackers had changed some voters' registration information. Looking back, White House officials wondered if the assault was a practice run by Russian agents "testing what kind of chaos they could unleash on Election Day."¹²

The Obama Administration was sufficiently concerned about a massive Election Day cyberattack that it prepared a contingency plan for "enhanced procedures" in the event of an attack "likely to result in demonstrable impact" to state election infrastructure.¹³ Had hackers halted voting entirely, the plan would have authorized deploying "armed federal law enforcement agents" to polling places and, depending on the scale of the crisis, even calling up "Active and Reserve military forces."¹⁴ Looking further ahead, the plan proposed a special effort to combat cyberattacks – including "planted stories" calling the election results into question – for three days after the election.¹⁵

Ultimately, these drastic measures were not implemented, though not all state election systems emerged unscathed. Initial reports indicated that election infrastructure in as many as 39 states was targeted by Russian agents.¹⁶ In June 2017, the Trump Administration's Department of Homeland Security confirmed cyberattacks in 21 states,¹⁷ with a total voter turnout last year of more than 82 million. Among those were traditional "swing states" including Florida, Ohio, Pennsylvania, Virginia, and Wisconsin¹⁸ as well as states considered comfortably "red" or "blue."

South Carolina's State Election Commission reported that hackers repeatedly sought to penetrate its voter registration system; they made nearly 150,000 attempts on Election Day alone.¹⁹ After penetrating Illinois's system, hackers unsuccessfully attempted to edit and delete records from the voter rolls, specifically targeting names and addresses.²⁰ Unlike California officials, who had been unable to detect their attackers' identities, Illinois authorities recorded the hackers' IP addresses. Using this information, federal intelligence officials concluded that the attackers were part of the group Fancy Bear, an "arm of Russian military intelligence."²¹ Only in September 2017, nearly a year after the attacks, did the federal government notify the 21 states that their systems had been targeted.²²

States Notified by Government About Election Day Targeting



Consequences of Russian Intrusion.

If Russian leaders set out to weaken Americans' faith in our democratic institutions, they have made progress. Polling in 2009 found that 59% of Americans expressed confidence in the honesty of their elections. By Election Day 2016, after a campaign inundated with stories of Russian hacking and multiple candidates lamenting a "rigged system," the numbers had dropped drastically: only 30% were confident that American elections were honest, versus 69% who weren't.²³

A poll released in June 2017 gave more dispiriting news: only 45% of respondents said that they could trust their state to keep their voting information safe.²⁴ Beyond that, the poll indicated that fears about hacking and election security are affecting not only voter attitudes, but also potentially behavior: one-fourth of surveyed voters said they would now consider staying away from their polling place in 2018.²⁵

Senior U.S. intelligence officials speaking with CNN have said that Russia feels "emboldened" by the ineffective U.S. response to attacks on our election systems.²⁶ This new boldness has manifested itself in several ways. Most visibly, Russian agents have launched new influence campaigns in other western democracies. The National Security Agency (NSA) confirmed that, in addition to leaking emails from French presidential candidate Emmanuel Macron, Russian hackers managed to penetrate France's "election infrastructure" in the lead up to its election.²⁷ The Russians have likewise sought to target German Chancellor Angela Merkel and her party; they had already stolen data from the German parliament.²⁸

In the U.S., Russian agents have "maintained an aggressive collection posture" according to former senior intelligence officials.²⁹ According to the Identify Theft Resource Center, which monitors data breaches in the U.S., the first half of 2017 saw a record 791 intrusions, a 29% increase over the same period in 2016.³⁰ Russia has increased traditional spying as well as cyber-intelligence operations. U.S. intelligence has observed increasing numbers of suspected Russian intelligence agents using innocuous business justifications to enter the U.S.³¹ Officials believed

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the Russians were "replenishing their ranks" after the Obama Administration expelled 35 suspected Russian spies following the election, with the number of suspected Russian operatives reaching nearly 150.³² Thomas Rid, professor at King's College London, concluded that following their successes in election-meddling, the Russians are "testing out red lines, what they can get away with. You push and see if you're pushed back. If not, you try the next step."³³

The Path Forward.

Shortly before President Obama left office, the Department of Homeland Security (DHS) designated American election systems as "critical infrastructure."³⁴ While the systems are run by state governments, the designation made them eligible for additional federal protection, including more efficient access to classified threat information, additional training, and other tools aimed at public and private entities.³⁵ The designation covers "storage facilities, polling places, and centralized vote tabulations locations used to support the election process, as well as information and communications technology like voter registration databases, voting machines and other systems used to manage the election process and report results."³⁶ The designation also allows states to more quickly access extensive DHS services, including in depth vulnerability assessments of the states' entire infrastructure.

Even with this designation, there is much work to do. Although DHS affirmed that “there was no indication that adversaries were planning cyber activity that would change the outcome” of the election, that does not mean that voting machines are invulnerable.³⁷ At the hacking conference DEF CON in summer 2017, organizers set up a dozen American voting machines for attendee experiments. The first machine was hacked within two minutes.³⁸ Many machines in use by states are over a decade old, with aging hardware and obsolete operating systems. Even worse, only three states have post-election audits robust enough to detect and thwart an attack. Fourteen states still conduct elections with voting systems which provide no record of the vote – i.e. a paper ballot. Thirty-two states allow some form of internet voting in which ballots become completely digital and there is no permanent voter verified paper record of the vote.

There are bipartisan steps forward however. In June this past summer, more than 100 experts on election administration, computer science and national security released a letter laying out an actionable plan for safeguarding the vote. The experts included Tea Party Republicans and progressive Democrats, academic computer scientists and corporate security officials – all united in the view that the “nation’s rough patchwork of voting security measures is wholly inadequate.”³⁹ Specifically, the letter called for paper records for every vote cast, robust audits in every state, ending internet voting, replacing aging election infrastructure and stepping up cybersecurity best practices.

Additionally, there is a growing, bipartisan consensus in Congress and in statehouses across the country on behalf of strong action. The cause has united some traditional political rivals: Robby Mook, former campaign manager for Hillary Clinton, and Matt Rhoades, head of the 2012 Mitt Romney campaign, have joined forces to create “Defending Digital Democracy,” an initiative to fight election hacking and address foreign intervention as a non-partisan issue.⁴⁰

On Capitol Hill, Sen. Amy Klobuchar, D-MN, has introduced a bill to *increase* funding to the federal Election Assistance Commission by \$325 million, offering states resources to update and better protect their voting machines and election infrastructure.⁴¹ Sens. Lindsey Graham, R-SC, and Klobuchar and Reps. Mark Meadows, R-NC, and Jim Langevin, D-RI, have introduced legislation that would authorize federal grant programs to assist states in upgrading cybersecurity practices, updating voting machinery and statewide voter registration databases, and conducting risk limiting audits.

The most promising steps have been taken on the state level. Virginia has decommissioned its paperless voting systems, replacing them with paper ballot systems in time for the 2017 elections. In September 2017, Rhode Island joined Colorado as the second state to require post-election, risk-limiting audits to verify the accuracy of vote counts.⁴² West Virginia has hired a cybersecurity expert to augment its elections officials, and Delaware is replacing its 21-year-old electronic voting system with one that leaves a paper trail to allow for post-election auditing.⁴³

Now, other states must follow their neighbors’ good examples. The use of paper ballots instead of voting machines “provides a resilient physical record of the vote that simply can’t be compromised by a cyberattack.”⁴⁴ With risk-limiting audits, officials can manually check a random sample of the ballots to quickly and reliably verify that the election outcome was correctly reported. Ending Internet voting – permitted in some form by 32 states – will ensure there is a paper ballot the voter has verified for every vote cast. And upgrading and regularly inspecting voter registration databases will help protect them against future attacks. There are ways to protect the integrity and security of our elections; states need only the resources and the political will to implement them.

Money in Politics

“Foreign powers will intermeddle in our affairs, and spare no expense to influence them. Persons having foreign attachments will be sent among us and insinuated into our councils, in order to be made instruments for their purposes. Every one knows the vast sums laid out in Europe for secret services.” – Elbridge Gerry⁴⁵

It’s illegal for a foreign national to make “a contribution or donation of money or other thing of value” or an “expenditure, independent expenditure, or disbursement for an electioneering communication.”⁴⁶ It is likewise illegal for an American to “solicit, accept, or receive” any such contribution or donation from a foreign national.⁴⁷ Despite this prohibition, there are ways for foreign money to creep into American politics and elections.

An investigative report published in October by Russian journalists explored a Russian “troll factory” that employed dozens of workers to pose as Americans and spread disinformation through Americans’ social media feeds.⁴⁸

The operators of this troll factory spent approximately \$2.3 million in these efforts.⁴⁹ Facebook emerged as a new front in the propaganda war when these Russian agents bought ads targeted at specific demographic groups on Facebook to spread their disinformation to the most receptive audiences.⁵⁰ Though Facebook initially dismissed these allegations, it eventually acknowledged the Russian ad purchases. In early September 2017, the company reported its discovery of \$100,000 spent by Russian-controlled clients on approximately 3,000 ads.⁵¹ The ads were connected to 470 “inauthentic” accounts and pages that were affiliated with one another and “likely operated out of Russia.”⁵² After public pressure, Facebook agreed to release information on the ads to congressional investigators and pledged to take steps to increase political transparency on the platform.⁵³

The Honest Ads Act would require social media networks including Facebook, Google, and Twitter to establish a publicly-accessible archive of all political ads published by purchasers who spend over \$500. Each record would include a copy of the ad, describe the intended audience, and provide contact information of the purchaser.

The Russian strategy appears to have been to splinter the American left while uniting the right behind then-candidate Trump. In addition to ads criticizing Hillary Clinton and supporting Trump, there were ads promoting Green Party candidate Dr. Jill Stein⁵⁴ and Sen. Bernie Sanders, D-VT, long after he had ended his campaign.⁵⁵

In an effort to thwart the proliferation of foreign-funded advertisements on Facebook, Sens. Klobuchar, Warner, and McCain introduced the Honest Ads Act on October 19, 2017.⁵⁶ The proposal would require social media networks including Facebook, Google, and Twitter to establish a publicly-accessible archive of all political ads published by purchasers who spend over \$500.⁵⁷ Each record would include a copy of the ad, describe the intended audience, and provide contact information of the purchaser.⁵⁸

The Foreign Agents Registration Act (FARA) is designed to regulate and record the activities of foreign agents seeking to lobby in the U.S. It provided the basis for some of the charges filed in October 2017 against former Trump campaign chairman Paul Manafort, but has rarely been enforced and largely been rendered ineffective by legal loopholes. The law does not apply to U.S.-based foreign agents who meet with American government or campaign officials overseas. It also allows American lobbyists to meet with elected officials on behalf of foreign clients and

then immediately make donations to the officials' political campaigns.⁵⁹ And through creative structuring, RT (formerly Russia Today), the news network funded by the Russian government, need not register as a foreign agent.⁶⁰

Foreign funds can also enter American politics through 501(c)(4) nonprofit groups. The Tax Code requires that 501(c)(4)s engage in "social welfare" as a primary purpose, but they may also participate in politics so long as that accounts for less than half of their activities. And though federal law bans both direct and indirect political contributions and expenditures by foreign nationals, 501(c)(4)s are generally permitted to accept foreign contributions and need not publicly disclose their donors.⁶¹ Foreign national contributions to a 501(c)(4), which can be used to pay for non-political operating expenses, free up U.S. national dollars to pay for political activity—the foreign national dollars effectively subsidize the political activity. So, the combination of the fungibility of money, a lack of Internal Revenue Service enforcement of restrictions on 501(c)(4) political activity, and the lack of transparency make it impossible to gauge how much foreign money is used to influence American elections through perfectly legal means, let alone covert, illegal ones.

The most significant publicly known intersection of campaign finance and Russian influence during the 2016 campaign occurred June 9, 2016, when Donald Trump, Jr., Jared Kushner, and Paul Manafort, then-manager of the Trump campaign, met with Russian lawyer Natalia Veselnitskaya in Trump Tower. A few days before, Trump Jr. had been contacted via email by Rob Goldstone, a producer and publicist for Russian pop star Emin Agalarov. Goldstone wrote that Emin's father, Aras Agalarov, a real estate tycoon with personal ties to Putin and business ties to Donald Trump, had documents to share that "would incriminate Hillary and her dealings with Russia and would be very useful to your father."⁶² He added that "This is obviously very high level and sensitive information but is part of Russia and its government's support for Mr. Trump."⁶³ Within minutes, Trump Jr. responded with "If it's what you say I love it, especially later in the summer."⁶⁴

Trump Jr. passed the information on to Kushner, his brother-in-law, and campaign manager Manafort; all three were present for the June 9 meeting. Kushner, it should be noted, had been placed in charge of the campaign's social media efforts after noting the Trump team's previous underutilization of online platforms.⁶⁵ During the campaign, he partnered with the Republican National Committee's data team and targeting firms like Cambridge Analytica to direct selected pieces of information to campaign supporters judged to be most receptive.⁶⁶ Another attendee of the meeting on the Russian side was Ike Kaveladze, who had been targeted in a money laundering investigation over his establishing about 2,000 U.S. corporations and bank accounts used by Russian citizens to move \$1.4 billion.⁶⁷

The meeting as described leaves both sides open to potential criminal liability. Russian nationals and the Russian government may have made illegal contributions or expenditures to benefit the Trump campaign, while Donald Jr. and the Trump campaign risked violating criminal prohibitions on soliciting and receiving illegal contributions, and coordinating with foreign nationals in their illegal expenditures.⁶⁸ Under the coordination rules, designed to enforce contribution limits, any spending by Russian nationals made "in cooperation, consultation, or concert with, or at the request or suggestion of" Trump or an agent of his campaign can be considered a contribution to the Trump campaign.⁶⁹ Receipt of that contribution would place the campaign in violation of the ban on foreign contributions.

Significantly, the prohibition on foreign contributions does not apply only to money; it also prohibits donating a "thing of value" to a candidate or committee.⁷⁰ To longtime campaign finance lawyer Paul S. Ryan, vice president of policy and litigation at Common Cause, the emails on the Trump Tower meeting provide "the smoking gun confirming that Donald Trump Jr. illegally solicited a contribution from a foreign national."⁷¹ Incriminating documents and opposition research intended to damage the opposing candidate clearly qualify as "things of value,"⁷² Ryan concluded. Trump Jr.'s response to the news and the people he chose to include in the meeting suggest the campaign saw the Clinton documents as potentially very valuable. Ryan further noted that Trump Jr.'s suggestion that the damaging Clinton information would be most useful "later in the summer" was evidence of coordination with the Russian agents over the timing of release.⁷³

Ryan is not alone in his assessment. Rick Hasen, law professor at the University of California, Irvine, described the emails as a "smoking gun" and argued that the documents offered by the Russians "can be considered a 'thing

of value' for purposes of the campaign finance law."⁷⁴ And Ryan Goodman, editor of the website Just Security, described the emails as "very clear evidence of participation in a scheme to involve the Russian government in federal election interference, in a form that is prohibited by federal criminal law."⁷⁵

These revelations throw statements by then-candidate Donald Trump, such as his repeated praise for WikiLeaks release of Democratic operatives' emails, or his request that Russia find and release Hillary Clinton's missing emails, into new light. When his senior campaign officials were meeting with representatives of the Russian government on that topic, Trump's claim to have been "joking" about the request strains credulity and looks increasingly like coordination and solicitation.

Common Cause has filed complaints with the FEC and the Department of Justice on these matters, for potential violations by both Donald Trump Jr. and the Russian nationals. Current law gives the FEC authority to reduce this vulnerability in our democracy; the agency need only take the time to investigate and marshal the facts. A thorough investigation is needed to determine whether campaign finance law has, in fact, been violated, and if it has, the authorities must prosecute the offenders to discourage future violations.

Media and Democracy

"The people do not [lack] virtue, but are the dupes of pretended patriots. ...they are daily misled into the most baneful measures and opinions by the false reports circulated by designing men, and which no one on the spot can refute." – Elbridge Gerry⁷⁶

The Russian Campaign

An enormous component of the Russian efforts to influence the 2016 election was the use of innovative media strategies to spread desired narratives and influence voters. Traditional propaganda outlets played their part: international news agencies RT and Sputnik, funded by the Russian government, included Russia-favorable spin in their news stories, promoting criticism of Hillary Clinton, praising Donald Trump, and emphasizing any stories that suggested corruption and weakness in American democracy.⁷⁷ Fragments of stolen Democratic Party emails released by WikiLeaks, magnifying conspiracy theories, were packaged as traditional online or television news stories.

As referenced above, Russian actors conducted this propaganda campaign partially through "troll factories" staffed by internet users masquerading as Americans. Just one, the Internet Research Agency (IRA), spent \$2.3 million in its efforts. Initially, it supported 90 workers on the "U.S. desk" who spread Russian propaganda via social media and contacted some American activists directly.⁷⁸ IRA offered thousands of dollars to Americans who would organize protests on especially divisive issues.⁷⁹ As the election grew nearer, IRA significantly expanded its capabilities: by mid-2015, its staff had grown to between 800 and 900, and it had begun creating and spreading "videos, infographics, memes, reporting, news, analytical materials," among other media.⁸⁰ By September 2016, IRA was posting over 1,000 pieces per week, with an estimated of audience of 20-30 million for the month.⁸¹

Just as Facebook became a new channel for foreign political money in 2016, it also served as a pipeline for propaganda. Facebook insists there was no evidence of foreign ad purchases on its site but concedes that some governments and individuals were spreading "fake news" to "distort domestic or foreign political sentiment, most frequently to achieve a strategic and/or geopolitical outcome."⁸² By the end of October, 2017, Facebook reported that it had discovered 36,746 Russian-linked accounts posting automated political content.⁸³ By Facebook's estimates, 126 million users, more than one-third of the U.S. population, were exposed to these fraudulent accounts' posts between 2015 and 2017.⁸⁴

The amount of fake news — fabricated stories designed to resemble legitimate news, then posted on websites and shared on Facebook before the 2016 election — was so pronounced that, shortly before Election Day, they generated more engagements on the platform than 19 top legitimate news sources combined.⁸⁵

To its credit, Facebook has taken steps to hinder the spread of fake news. Shared stories now include panels with information about the publisher to give an indication of the source's legitimacy.⁸⁶ The links are also followed by additional links to related stories, providing readers with additional context.⁸⁷ The impact of these new features is unclear. There is no easy way to convince a voter that what he believes to be true is actually false. Nor is it simple to make someone discount a true story just because it was shared in a targeted foreign intelligence operation. Because it exists in the mind of every citizen, this vulnerability of American democracy is one of the most difficult to address.

President Trump and the Press

When discussing the influence of Russian interference on the media, a separate danger must be addressed. President Trump's response to media coverage of Russia's election meddling has been marked by his hostility to reporters, news outlets, and even the democratic norm of a free and independent press. The president has appropriated the term "fake news" and applied it to stories or sources he finds inaccurate or simply unfavorable.



The president tweeted a video depicting him body-slaming a man whose face had been replaced with an animated CNN logo

In February 2017, he labeled the so-called "fake news" media — broadly speaking, the mainstream press — "the enemy of the people."⁸⁸ Days later, he repeated the charge to attendees at the annual Conservative Political Action Conference, declaring that journalists "have no sources; they just make 'em up when there are none."⁸⁹

The administration's relationship with the White House press corps has been similarly hostile. As White House press secretary, Sean Spicer made an unprecedented decision to hold off-camera press briefings that excluded reporters from CNN, the *New York Times*, the *Los Angeles Times*, Politico, BuzzFeed, the BBC, and The Guardian, outlets the president had previously criticized.⁹⁰

Later in his tenure, Spicer sharply cut the number of on-camera briefings for all reporters; news networks began sending sketch artists to document the briefings.⁹¹

President Trump's personal relationship with the press has only deteriorated. He is friendly with conservative radio hosts like Laura Ingraham and cable TV's Fox News channel; he routinely tweets his approval of Fox's morning program, *Fox & Friends*. Outside of conservative media, though, his hostility has steadily increased. In February 2017, during a one-on-one meeting with then-FBI Director James Comey, Trump began the discussion by condemning leaks to the media by members of his administration.⁹² He suggested that the FBI should consider putting reporters in prison, saying "Look, you used to put reporters in prison 10 or 15 years ago and that had some real impact."⁹³

In July, the president tweeted a video depicting him body-slaming a man whose face had been replaced with an animated CNN logo,⁹⁴ prompting a director of the Committee to Protect Journalists to complain that his "charged rhetoric online...undermines the media in the U.S. and emboldens autocratic leaders around the world."⁹⁵ The president was undeterred; he has declared online that "Drain the Swamp...begins with the Fake News!"⁹⁶ On October 11, in response to negative coverage, he tweeted, "With all of the Fake News coming out

of NBC and the Networks, at what point is it appropriate to challenge their License? Bad for country!”⁹⁷ His apparent willingness to use the federal government to silence an unfriendly network, combined with the fact that broadcast licenses are held by local stations, not NBC and other networks — reveals a staggering ignorance of or contempt for the First Amendment.

Financial Conflicts of Interest

“This very executive may, by consent of Congress, receive a stated pension from European potentates... It is not many years ago—since the Revolution—that a foreign power offered emoluments to persons holding offices under our government. It will, moreover, be difficult to know whether he receives emoluments from foreign powers or not.” – George Mason⁹⁸

The Foreign Emoluments Clause of the U.S. Constitution (Article 1, Section 9) stipulates that no one holding an “office of profit or trust” under the Constitution may “accept any present, emolument, office or title of any kind whatever from any King, Prince or foreign State.”⁹⁹ The framers imposed this ban on emoluments — payments, profits, or advantages — as another safeguard against foreign influences corrupting the national government.¹⁰⁰ President Trump now serves with unprecedented financial conflicts of interest, presiding over a business empire spanning 25 countries and receiving payments from foreign powers at his hotels, but neither he nor Congress have taken action to mitigate these conflicts.¹⁰¹ It’s unclear whether possible violations of the Emoluments Clause are part of the investigation led by Special Counsel Mueller.

Every president since Jimmy Carter placed his assets into a blind trust or converted them into non-conflicting assets.¹⁰² They understood that this protected them from accusations of corruption. Given the intelligence community’s finding that Russia actively worked to support President Trump’s election, he had more reason than most to shield himself from such accusations. Nevertheless, he has refused to divest from his holdings, place his assets in a blind trust, or release his tax returns to the public. On Russia, he has adopted a policy of firm denial: he has tweeted “I HAVE NOTHING TO DO WITH RUSSIA — NO DEALS, NO LOANS, NO NOTHING!” and repeatedly insisted that he has “no investments in Russia, none whatsoever.”¹⁰³

These protests belie decades of investments and partnerships.

Near bankruptcy in 1996, Trump proposed building an underground shopping mall near the Kremlin in Moscow, saying he had never been “as impressed with the potential of a city as [he had] been with Moscow.”¹⁰⁴ During the next 10 years, he filed at least eight trademarks in Russia.¹⁰⁵ Although the project was a failure, Trump formed relationships that later proved fruitful, notably with the Bayrock Group, a company founded by “a former Soviet official and a Russian-American businessman who has since been implicated in a stock-manipulation and money-laundering scheme involving members of the Russian mob.”¹⁰⁶ During this same period, Russian nationals began buying dozens of condos in Trump Tower in Manhattan.¹⁰⁷

New attempts to bring the Trump brand to Russia resumed in the next decade; between 2005 and 2008, Trump or his children pursued a new Russian branding deal every year.¹⁰⁸ In a deposition in 2007, Trump said “Russia is one of the hottest places in the world for investment” and pledged that “We will be in Moscow at some point,”¹⁰⁹ because “It’s ridiculous that I wouldn’t be investing in Russia.”¹¹⁰ Representatives of Bayrock arranged to bring Russian investors to Trump Tower to discuss Moscow deals.¹¹¹ Donald Trump, Jr., demonstrated particular interest in Russian projects, visiting the country six times during an 18 month period.¹¹² In 2008, he boasted that “Russians make up a pretty disproportionate cross-section of a lot of our assets. We see a lot of money pouring in from Russia.”¹¹³ In 2013, Trump took the Miss Universe Pageant to Moscow with \$20 million in funding from a Russian billionaire.¹¹⁴ He joked about becoming best friends with Vladimir Putin and went on David Letterman’s talk show to declare “I’ve done a lot of business with the Russians.”¹¹⁵ The next year, his son Eric told a golf magazine “We don’t rely on American banks. ...We have all the funding we need out of Russia.”¹¹⁶

“Russia is one of the hottest places in the world for investment... We will be in Moscow at some point.”

“I HAVE NOTHING TO DO WITH RUSSIA — NO DEALS, NO LOANS, NO NOTHING!”



Within the past year, Special Counsel Mueller has begun investigating the 2013 pageant, a 2008 sale of Florida real estate by the Trump organization to Russian buyers,¹¹⁷ and the Trump partnership with Bayrock on the Trump SoHo condo development for possible ties between Trump and elements within the Russian government.¹¹⁸ Former senior officials speaking with the *New York Times* suggested that the investigation was focused on money laundering by Trump associates, under the assumption that any payoffs in exchange for cooperation with Russian officials would have been moved through offshore banks to conceal them.¹¹⁹

A lawsuit alleged that Bayrock received financial backing from Russian criminal enterprises, asserting that “tax evasion and money-laundering are the core of Bayrock’s business model.”¹²⁰ The allegations did not stop Trump from partnering with Bayrock on further projects in Florida, Arizona, New York, and around the world.¹²¹ One Bayrock official secured a \$50 million investment in Trump SoHo by an Iceland-based firm “preferred by wealthy Russians ‘in favor with’” Putin.¹²² Nor did Bayrock’s history prevent Trump from hiring its principal partner Felix Sater as a senior advisor in his own company. Sater, who has boasted of ties to Kremlin and KGB contacts, has further ties to Russian and American organized crime.¹²³ His career has included a period as mob informant for the FBI and a stint in prison for “slashing apart another man’s face with a broken cocktail glass” before his time with Bayrock and the Trump Organization.

While in Moscow, Trump met with Putin-allied Russian oligarchs, even bragging that “The Russian market is attracted to me. ...Almost all of the oligarchs were in the room.”¹²⁴ Among those he met was Hergman Gref, head of Russia’s largest bank, the state-run Sberbank.¹²⁵ As referenced above, Trump also developed a business and personal relationship with the Agalarov family and appears to have remained in touch with them since his election. In addition to sharing that Trump had sent him a handwritten note after Election Day, Agalarov told *Forbes* “Now that he ran and was elected, he does not forget his friends.”¹²⁶

Even a presidential campaign did not halt Trump’s Russian ventures. While Russian agents worked to support his election, he continued pursuing business opportunities in their country. In October 2015, Trump signed a 17-page letter of intent authorizing his attorneys to negotiate a new Russia project: Trump-branded condominiums, commercial properties, and a hotel, all in downtown Moscow.¹²⁷ In late 2016, Trump’s son-in-law met secretly with Sergey Gorkov, CEO of the U.S.-sanctioned Russian bank Vnesheconombank, which had previously financed

construction of the Trump hotel in Toronto.¹²⁸ Trump's Russian trademarks, registered since in the 1990s but inactive, were set to expire in 2016, until the Russian patent agency granted 10 new 10-year extensions.¹²⁹ Four of them were approved on Election Day.¹³⁰

But President Trump insists he has no deals with Russia.

While in office, the president has taken few steps to address his conflicts; even the feeble promises he has made do not appear to have been kept. Hoping to avoid a violation of the Foreign Emoluments Clause, Trump pledged to donate to the U.S. Treasury all profits from his hotels earned from payments by foreign governments.

This specification of "profits" rather than "income" and "his hotels" rather than "all his businesses" excluded many payments from foreign governments to the Trump Organization. The organization's implementation of the president's pledge has ignored even more. According to Trump Organization documents, it is "impractical" to ask all guests whether they have connections with a foreign government and would "impede upon personal privacy and diminish the guest experience of our brand."¹³¹ Thus, Trump hotels apply the policy only to those guests who have "specifically identified themselves as being a representative of a foreign government entity."¹³² The president's lawyers contend the Emoluments Clause should not apply to fair-market transactions like hotel visits, though constitutional law and ethics experts disagree.¹³³

Unless Congress acts to enforce the Foreign Emoluments Clause, agents of foreign governments can freely make payments to the president in violation of the Constitution. The Constitution explicitly makes this the responsibility of members of Congress; they have a duty to act on it.

Ethics in Governance and Law Enforcement

"[The president] may frequently pardon crimes which were advised by himself. ...If he has the power of granting pardons before indictment, or conviction, may he not stop inquiry and prevent detection?"
-George Mason

"If the president be connected, in any suspicious manner, with any person, and there be grounds to believe he will shelter him, the House of Representatives can impeach him; [and] they can remove him if found guilty." – James Madison¹³⁴

As head of the Executive Branch, the President of the United States is the ultimate authority of the Department of Justice. To maintain the independence of law enforcement however, presidents traditionally have deferred to the attorney general and refrained from micromanagement. The president also has the power to pardon violators of federal crimes. The Constitution places no explicit conditions on this power, but presidents traditionally have used a formalized process to avoid arbitrary exercise of the power. President Trump has signaled his willingness to break with these precedents, firing FBI Director Comey and suggesting he may dismiss Special Counsel Mueller as well. Perhaps Trump feels the revelation of Russian assistance to his campaign cheapens his victory. For whatever reason, he has deliberately and repeatedly moved to discourage and discredit investigations of the Russian intervention, to the point that he risks criminal liability for reasons totally unrelated to the matters under investigation.

In Summer 2016, American intelligence agencies learned that Russian officials were discussing efforts to influence Donald Trump through Paul Manafort and retired Gen. Michael Flynn, both of whom had ties to Russia.¹³⁵ When President Trump fired Acting Attorney General Sally Yates on January 30, 2017, the announced reason was her refusal to defend his newly-announced ban on travel to America from predominately Muslim nations.¹³⁶ In the weeks that followed, it emerged that Yates had clashed with the White House over Gen. Flynn's conduct during his brief tenure as the president's national security advisor. Flynn had spoken by phone to Russian ambassador Sergey Kislyak, but insisted that their discussion did not include the possibility that Trump would relax sanctions on Russia; other members of the administration repeated the denial.¹³⁷ Yates and DOJ knew – thanks to work by the intelligence community – that Flynn was not being truthful, and was thus "compromised" by Russia, which

could use the lie to blackmail him.¹³⁸ She informed the White House, expecting immediate action, but Flynn was not forced out until weeks later, after Yates had been fired.¹³⁹

This is not the only firing with unexplained connections to the Russia investigation. Preet Bharara, formerly U.S. attorney in the Southern District of New York, has charged that though President-elect Trump personally asked him to remain at his post in the incoming Trump Administration, he was among 45 U.S. attorneys asked to resign on March 11, 2017.¹⁴⁰ Special Counsel Mueller is now investigating business transactions by Trump and his associates in New York, following groundwork laid by Bharara prior to his firing.¹⁴¹

Before his dismissal, Bharara's office also had been investigating Russian-linked money laundering, focusing on a firm represented by Natalia Veselnitskaya, the attorney who met with Donald Trump, Jr., at Trump Tower in June 2016 to offer information on Hillary Clinton.¹⁴² Marc Kasowitz, President Trump's personal lawyer, reportedly warned Trump that Bharara "is going to get you" and later boasted about playing a central role in Bharara's firing.¹⁴³ In appointing new U.S. attorneys, Trump has taken the unprecedented step of personally interviewing multiple candidates: violating the traditional independence of the Justice Department, he has met with potential appointees for Washington, D.C. and New York, arguably the nation's highest profile prosecutor's offices.^{144,145}

In a misunderstanding of news reports or a deliberate attempt to shift public attention and investigators' focus, President Trump on March 4, 2017 issued a series of tweets alleging that shortly before the election, President Obama ordered a wiretap on his phones at Trump Tower.¹⁴⁶ The charge received cover from U.S. Rep. Devin Nunes, R-CA, chairman of the House Intelligence Committee and a former member of Trump's transition team. Nunes met with Trump at the White House and later told reporters that intelligence monitoring during the Obama administration may have "incidentally" picked up conversations by Trump advisors.¹⁴⁷ Although the president took Nunes' remarks as vindication, the Justice Department ultimately acknowledged that there was "no evidence to support President Donald Trump's claim that President Barack Obama ordered the wiretapping of Trump Tower during the 2016 presidential campaign."¹⁴⁸

President Trump's highest-profile firing has been that of FBI Director Comey, who was the ultimate overseer of the Bureau's Russia investigation. Breaching another norm, President Trump had one-on-one conversations with Comey several times in the early days of the administration. According to Comey, the president asked during one meeting if the director could "let Flynn go," and insisted that he needed Comey's "loyalty."¹⁴⁹ Comey declined to pledge loyalty and on May 9, 2017, the president fired him. The stated reason was what Trump and his allies contend was Comey's flawed handling of the Hillary Clinton email investigation in the months leading up to the election, even though Trump praised the director's decision at the time.¹⁵⁰

Flimsy as this justification was, the president undermined it further by conceding in an interview with NBC News that "Regardless of (Attorney General Sessions') recommendation, I was going to fire Comey."¹⁵¹ He acknowledged that "when I decided to just do it, I said to myself, I said, you know, this Russia thing with Trump and Russia is a made-up story."¹⁵²

The president quickly learned that firing Comey would not protect him from further scrutiny. In the firing's aftermath, Deputy Attorney General Rod Rosenstein appointed former FBI Director Robert Mueller as special counsel to investigate Russia's interference in the 2016 election. Within weeks, published reports indicated that Mueller's probe includes an investigation of President Trump for possible obstruction of justice.¹⁵³

The president's behavior since Mueller's appointment has provided further subjects for investigation. When he learned that reporters were about to break the story of Donald Jr.'s meeting at Trump Tower to discuss Russian assistance against Clinton, President Trump and his advisors reportedly recommended that Donald Jr. release a full and truthful statement that could not be contradicted later, to "get ahead of the story."¹⁵⁴ Hours later, the president apparently dictated a statement for his son claiming that the meeting had "primarily discussed a program about the adoption of Russian children," a claim that eventually was contradicted by Donald Jr.'s own emails on the meeting.¹⁵⁵ When those details emerged, the president's advisors feared he had placed them in potential legal jeopardy and created the appearance of a coverup.¹⁵⁶

For whatever reason, President Trump has shown a strong interest in restricting the scope of the special counsel's investigation. In June 2017, Christopher Ruddy, a confidant of Trump's, told PBS he believed the president was considering firing Mueller.¹⁵⁷ In July, the president said that "a special counsel should never have been appointed in this case" and that it would be a "violation" for Mueller to probe his financial dealings or those of his family.¹⁵⁸ His lawyers then began building a case against Mueller's credibility, alleging conflicts of interest.¹⁵⁹ Trump echoed them, suggesting that Mueller had a conflict because he had been considered for the post of FBI Director after Comey's firing.¹⁶⁰ Enigmatically, he added, "There were many other conflicts that I haven't said, but I will at some point."¹⁶¹

The special counsel cannot be fired directly by the president; that authority is reserved for the attorney general, or – if the attorney general's office is vacant – the acting attorney general, both of whom serve at the president's pleasure. For the purposes of Special Counsel Mueller's investigation, Deputy Attorney General Rod Rosenstein is serving as acting attorney general; Attorney General Sessions recused himself last spring.

In July, after Rosenstein indicated there was no good cause to fire Mueller, Trump kept him on but quickly and publicly questioned his loyalty. He referenced "Rod Rosenstein, who is from Baltimore," noting that "There are very few Republicans in Baltimore, if any. So, he's from Baltimore..."¹⁶² A few days after that, the president began publicly berating Attorney General Sessions for taking a "VERY weak position on Hillary Clinton crimes" and asked "where is the investigation A.G." in response to a story concerning Ukrainian opposition to his campaign and support for Clinton.¹⁶³ Asked if he intended to fire Sessions, Trump replied "Time will tell" and said "I'm just looking at it."¹⁶⁴ Although a new attorney general would have authority to fire Mueller, Sessions remains in office.

While there's no indication the president has been able to restrict Mueller's investigation, his lawyers reportedly have explored his power to pardon aides, family members, and even himself.¹⁶⁵ Though the White House initially denied those reports, the president tweeted that "all agree" that the President of the United States has "complete power to pardon."¹⁶⁶

The pardon power could protect the president's allies from criminal prosecution, but it likely cannot protect the president. The question of whether a self-pardon is even possible is unsettled, though legal scholars tend to believe it is not.¹⁶⁷ During the Nixon Administration, the Justice Department issued a legal opinion that the president could not pardon himself, citing the long-established legal principle that a man cannot be the judge in his own case.¹⁶⁸ And even if such a pardon was possible, it cannot protect the president from the ultimate constitutional remedy: impeachment.

President Trump's disrespect for the protocols of federal law enforcement weakens the independence of the Department of Justice. This vulnerability is another that demands action by Congress. The special counsel must be permitted to continue his work unimpeded, protected by new legislation if necessary; at least two bills that would guarantee his independence have been introduced in Congress. Congress must likewise continue its own investigations and until those inquiries are complete must defend the integrity and independence of the federal justice system.

Conclusions

"Against the insidious wiles of foreign influence (I conjure you to believe me, fellow-citizens) the jealousy of a free people ought to be constantly awake, since history and experience prove that foreign influence is one of the most baneful foes of republican government."¹⁶⁹ – George Washington

"They will be back." So said James Comey when asked in June 2017 about Russian interference in the election.¹⁷⁰ Russia's efforts in 2016 were not the culmination of a grand plan; they almost certainly were the opening moves. Experts agree that the campaign to undermine American democracy will continue, bolstered by Russia's experience in meddling in American and European elections.¹⁷¹

Investigating and adapting to Russia's interference in the 2016 election is not—and must not be—a partisan exercise. It is a patriotic duty. All democracies have vulnerabilities. Perhaps it was easier to understand democracy's fragility when the United States was a young, small nation, but it is equally important to remember it today.

Americans should not be paranoid or pessimistic about this challenge, but we must be vigilant. Lawmakers at the national and state levels must act. Common Cause has worked to uphold the core values of American democracy since 1970, and we know that solutions are available. We can strengthen our election infrastructure by shifting to paper ballots and “risk-limiting” audits of election results. We can toughen disclosure laws to help keep foreign money out of our elections and slow the spread of “fake news” through social media outlets, and we can require that presidents and candidates for president release their tax returns so voters will know when they're trying to profit off the office. These and other steps are vital and it is past time to take them. We cannot take our eyes from the road simply because we have travelled safely in the past. Let us continue building a great democracy, advancing the framers' vision against all challenges.

Notes

- 1 Charles Pinckney, 1800. <https://books.google.com/books?id=O2sLAAAAYAAJ&pg=PA390&lpg=PA390>.
- 2 *The intelligence community report on Russian activities in the 2016 election*, THE WASHINGTON POST, <https://www.washingtonpost.com/apps/g/page/politics/the-intelligence-community-report-on-russian-activities-in-the-2016-election/2153/>.
- 3 Ellen Nakashima, *'Guccifer 2.0' claims credit for DNC hack*, THE WASHINGTON POST (JUNE 15, 2016), https://www.washingtonpost.com/world/national-security/guccifer-20-claims-credit-for-dnc-hack/2016/06/15/ABDCDF48-3366-11E6-8FF7-7B6C1998B7A0_story.html
- 4 Tom Hamburger and Karen Tumulty, *WikiLeaks releases thousands of documents about Clinton and internal deliberations*, THE WASHINGTON POST (JULY 22, 2016), https://www.washingtonpost.com/news/post-politics/wp/2016/07/22/on-eve-of-democratic-convention-wikileaks-releases-thousands-of-documents-about-clinton-the-campaign-and-internal-deliberations/?utm_term=.9b4c792a8c15.
- 5 Ashley Parker and David E. Sanger, *Donald Trump Calls on Russia to Find Hillary Clinton's Missing Emails*, THE NEW YORK TIMES (JULY 27, 2016), <https://www.nytimes.com/2016/07/28/us/politics/donald-trump-russia-clinton-emails.html>.
- 6 Chuck Todd, Mark Murray, and Carrie Dann, *Trump Has Been Strikingly Consistent in Denying Russian Hacking Role*, NBC NEWS (JANUARY 6, 2017), <https://www.nbcnews.com/politics/first-read/trump-has-been-strikingly-consistent-denying-russian-hacking-role-n703866>.
- 7 James Madison, <https://books.google.com/books?id=2F3GAAAAMAAJ&pg=PA60>.
- 8 Massimo Calabresi, *Inside the Secret Plan to Stop Vladimir Putin's U.S. Election Plot*, TIME (JULY 20, 2017), <http://time.com/4865982/secret-plan-stop-vladimir-putin-election-plot/>.
- 9 Curt Merlo, *How an Entire Nation Became Russia's Test Lab for Cyberwar*, WIRED (JUNE 20, 2017), <https://www.wired.com/story/russian-hackers-attack-ukraine/>.
- 10 *Id.*
- 11 Calabresi, *supra*.
- 12 *Id.*
- 13 *Id.*
- 14 *Id.*
- 15 *Id.*
- 16 Sam Thielman, *The DHS hasn't investigated whether voting machines were hacked in November, and says it doesn't intend to*, BUSINESS INSIDER (JUNE 30, 2017), <http://www.businessinsider.com/dhs-is-refusing-to-investigate-hack-of-voting-machines-2017-6>.
- 17 Morgan Chalfant, *DHS official: Russia targeted election-related systems in 21 states*, THE HILL (JUNE 21, 2017), <http://thehill.com/policy/cybersecurity/338738-dhs-official-election-related-systems-in-21-states-targeted-by-russia>.
- 18 Geoff Mulvihill and Jake Pearson, *Federal government notifies 21 states of election hacking*, AP (SEPTEMBER 23, 2017), <https://apnews.com/cb8a753a9b0948589cc372a3c037a567>.
- 19 Alexa Corse, *South Carolina May Prove a Microcosm of U.S. Election Hacking Efforts*, THE WALL STREET JOURNAL (JULY 16, 2017), <https://www.wsj.com/articles/south-carolina-may-prove-a-microcosm-of-u-s-election-hacking-efforts-1500202806?mod=EQ2TWP>.
- 20 Calabresi, *supra*.
- 21 *Id.*
- 22 Mulvihill and Pearson, *supra*.
- 23 Calabresi, *supra*.
- 24 AJ Dellenger, *Election Hacking: US Citizens May Not Turn Out For Midterms Over Cybersecurity Fears*, INTERNATIONAL BUSINESS TIMES

- (JULY 12, 2017), [HTTP://WWW.IBTIMES.COM/ELECTION-HACKING-US-CITIZENS-MAY-NOT-TURN-OUT-MIDTERMS-OVER-CYBERSECURITY-FEARS-2564975](http://www.ibtimes.com/election-hacking-us-citizens-may-not-turn-out-midterms-over-cybersecurity-fears-2564975).
- 25 *Id.*
- 26 Pamela Brown, Shimon Prokupez and Evan Perez, *Russia Steps Up Spying Efforts After Election*, CNN (JULY 18, 2017), [HTTP://WWW.CNN.COM/2017/07/06/POLITICS/RUSSIA-STEPS-UP-SPYING-EFFORTS-AFTER-ELECTION/INDEX.HTML](http://www.cnn.com/2017/07/06/politics/russia-steps-up-spying-efforts-after-election/index.html).
- 27 Andy Greenberg, *The NSA Confirms It: Russia Hacked French Election 'infrastructure'*, WIRED MAGAZINE (MAY 9, 2017), [HTTPS://WWW.WIRED.COM/2017/05/NSA-DIRECTOR-CONFIRMS-RUSSIA-HACKED-FRENCH-ELECTION-INFRASTRUCTURE/](https://www.wired.com/2017/05/nsa-director-confirms-russia-hacked-french-election-infrastructure/).
- 28 *Id.*
- 29 Brown, et al., *supra*.
- 30 Aditi Roy, *At Black Hat Conference, good guy hackers have a bleak view of US cybersecurity*, CNBC (JULY 27, 2017), [HTTPS://WWW.CNBC.COM/2017/07/27/BLACK-HAT-CONFERENCE-HACKERS-HAVE-BLEAK-VIEW-OF-SECURITY.HTML](https://www.cnbc.com/2017/07/27/black-hat-conference-hackers-have-bleak-view-of-security.html).
- 31 Brown, et al., *supra*.
- 32 *Id.*
- 33 Merlo, *supra*.
- 34 Katie Bo Williams, *DHS designates election systems as 'critical infrastructure'*, THE HILL (JANUARY 6, 2017), [HTTP://THEHILL.COM/POLICY/NATIONAL-SECURITY/313132-DHS-DESIGNATES-ELECTION-SYSTEMS-AS-CRITICAL-INFRASTRUCTURE](http://thehill.com/policy/national-security/313132-dhs-designates-election-systems-as-critical-infrastructure).
- 35 *Id.*
- 36 *Id.*
- 37 Sam Thielman, *The DHS hasn't investigated whether voting machines were hacked in November, and says it doesn't intend to*, BUSINESS INSIDER (JUNE 30, 2017), [HTTP://WWW.BUSINESSINSIDER.COM/DHS-IS-REFUSING-TO-INVESTIGATE-HACK-OF-VOTING-MACHINES-2017-6](http://www.businessinsider.com/dhs-is-refusing-to-investigate-hack-of-voting-machines-2017-6).
- 38 Lily Hay Newman, *To Fix Voting Machines, Hackers Tear Them Apart*, WIRED (AUGUST 1, 2017), [HTTPS://WWW.WIRED.COM/STORY/VOTING-MACHINE-HACKS-DEFCON/](https://www.wired.com/story/voting-machine-hacks-defcon/).
- 39 J. Alex Halderman and Justin Talbot Thorn, "Here's how to keep Russian hackers from attacking the 2018 election." Washington Post (June 21, 2017) https://www.washingtonpost.com/news/posteverything/wp/2017/06/21/heres-how-to-keep-russian-hackers-from-attacking-the-2018-elections/?utm_term=.dde785b171a6
- 40 Ellen Nakashima, *Former Clinton and Romney campaign chiefs join forces to fight election hacking*, THE WASHINGTON POST (JULY 18, 2017), [HTTPS://WWW.WASHINGTONPOST.COM/WORLD/NATIONAL-SECURITY/FORMER-CLINTON-AND-ROMNEY-CAMPAIGN-CHIEFS-JOIN-FORCES-TO-FIGHT-ELECTION-HACKING/2017/07/17/756CCF56-6B12-11E7-B9E2-2056E768A7E5_STORY.HTML](https://www.washingtonpost.com/world/national-security/former-clinton-and-romney-campaign-chiefs-join-forces-to-fight-election-hacking/2017/07/17/756ccf56-6b12-11e7-b9e2-2056e768a7e5_story.html).
- 41 Calabresi, *supra*.
- 42 *Rhode Island Takes Important Step to Secure Elections with Post-Election Audits*, COMMON CAUSE (SEPTEMBER 20, 2017), [HTTP://WWW.COMMONCAUSE.ORG/PRESS/PRESS-RELEASES/RHODE-ISLAND-TAKES-IMPORTANT-STEP-TO-SECURE-ELECTIONS-WITH-RISK-LIMITING-AUDITS.HTML](http://www.commoncause.org/press/press-releases/rhode-island-takes-important-step-to-secure-elections-with-risk-limiting-audits.html).
- 43 Michael Wines, *Wary of Hackers, States Move to Upgrade Voting Systems*, THE NEW YORK TIMES (OCTOBER 14, 2017), [HTTPS://WWW.NYTIMES.COM/2017/10/14/US/VOTING-RUSSIANS-HACKING-STATES-.HTML](https://www.nytimes.com/2017/10/14/us/voting-russians-hacking-states-.html).
- 44 <https://www.intelligence.senate.gov/sites/default/files/documents/os-ahalderman-062117.pdf>.
- 45 Elbridge Gerry, <https://books.google.com/books?id=DbYxQAAMAAJ&pg=PA411>.
- 46 52 U.S.C. § 30121.
- 47 *Id.*
- 48 Hannah Levintova, *Russian Journalists Just Published a Bombshell Investigation About a Kremlin-Linked "Troll Factory"*, MOTHER JONES (OCTOBER 18, 2017), [HTTP://WWW.MOTHERJONES.COM/POLITICS/2017/10/RUSSIAN-JOURNALISTS-JUST-PUBLISHED-A-BOMBHELL-INVESTIGATION-ABOUT-A-KREMLIN-LINKED-TROLL-FACTORY/](http://www.motherjones.com/politics/2017/10/russian-journalists-just-published-a-bombshell-investigation-about-a-kremlin-linked-troll-factory/).
- 49 *Id.*
- 50 *Id.*
- 51 Alex Stamos, *An Update On Information Operations On Facebook*, FACEBOOK NEWSROOM (SEPTEMBER 6, 2017), [HTTPS://NEWSROOM.FB.COM/NEWS/2017/09/INFORMATION-OPERATIONS-UPDATE/](https://newsroom.fb.com/news/2017/09/information-operations-update/).
- 52 *Id.*
- 53 Robert McMillan, Byron Tau and Deepa Seetharaman, *Facebook Says It Will Hand Over Russia-Backed Ads to Congress*, THE WALL STREET JOURNAL (SEPTEMBER 21, 2017), [HTTPS://WWW.WSJ.COM/ARTICLES/FACEBOOK-TO-RELEASE-RUSSIAN-LINKED-ADS-TO-CAPITOL-HILL-INVESTIGATORS-1506022583](https://www.wsj.com/articles/facebook-to-release-russian-linked-ads-to-capitol-hill-investigators-1506022583).
- 54 *Russian-funded Facebook ads backed Stein, Sanders and Trump*, POLITICO (SEPTEMBER 26, 2017), [HTTP://WWW.POLITICO.COM/STORY/2017/09/26/FACEBOOK-RUSSIA-TRUMP-SANDERS-STEIN-243172](http://www.politico.com/story/2017/09/26/facebook-russia-trump-sanders-stein-243172).
- 55 *Id.*
- 56 Elizabeth Strassner, *Warner, Klobuchar, McCain Propose Honest Ads Act*, USA TODAY (OCTOBER 19, 2017), [HTTPS://WWW.USNEWS.COM/NEWS/POLITICS/ARTICLES/2017-10-19/WARNER-KLOBUCHAR-MCCAIN-PROPOSE-HONEST-ADS-ACT](https://www.usnews.com/news/politics/articles/2017-10-19/warner-klobuchar-mccain-propose-honest-ads-act).
- 57 *Id.*
- 58 *Id.*
- 59 Uri Friedman, *"5 Ways to Interfere in American Elections—Without Breaking the Law"*, THE ATLANTIC (JULY 24, 2017), [HTTPS://WWW.THEATLANTIC.COM/INTERNATIONAL/ARCHIVE/2017/07/LEGAL-WAYS-INTERFERE-ELECTION/534057/](https://www.theatlantic.com/international/archive/2017/07/legal-ways-interfere-election/534057/).
- 60 *Id.*
- 61 *Id.*

- 62 Jo Becker, Adam Goldman and Matt Apuzzo, *Russian Dirt on Clinton? 'I Love It,' Donald Trump Jr. Said*, THE NEW YORK TIMES (JULY 11, 2017), [HTTPS://WWW.NYTIMES.COM/2017/07/11/US/POLITICS/TRUMP-RUSSIA-EMAIL-CLINTON.HTML](https://www.nytimes.com/2017/07/11/us/politics/trump-russia-email-clinton.html).
- 63 K.K. Rebecca Lai and Alicia Parlapiano, *What We Know About Donald Trump, Jr.'s Russia Meeting*, THE NEW YORK TIMES (JULY 18, 2017), [HTTPS://WWW.NYTIMES.COM/INTERACTIVE/2017/07/18/US/POLITICS/DONALD-TRUMP-JR-RUSSIA-MEETING.HTML](https://www.nytimes.com/interactive/2017/07/18/us/politics/donald-trump-jr-russia-meeting.html).
- 64 Becker, et al., *supra*.
- 65 Steven Burtoni, *Exclusive Interview: How Jared Kushner Won Trump The White House*, FORBES (DECEMBER 20, 2016), [HTTPS://WWW.FORBES.COM/SITES/STEVENBERTONI/2016/11/22/EXCLUSIVE-INTERVIEW-HOW-JARED-KUSHNER-WON-TRUMP-THE-WHITE-HOUSE/#7F19F0E3AF68](https://www.forbes.com/sites/stevenbertoni/2016/11/22/exclusive-interview-how-jared-kushner-won-trump-the-white-house/#7f19f0e3af68).
- 66 *Id.*
- 67 Daniella Diaz, *Eighth person in Trump team meeting linked to money laundering investigation*, CNN (JULY 20, 2017), [HTTP://WWW.CNN.COM/2017/07/19/POLITICS/IKE-KAVELADZE-LINKED-TO-MONEY-LAUNDERING-INVESTIGATION/INDEX.HTML](http://www.cnn.com/2017/07/19/politics/ike-kaveladze-linked-to-money-laundering-investigation/index.html).
- 68 Bob Bauer, *Open Door to Moscow? New Facts in the Potential Criminal Case of Trump Campaign Coordination with Russia*, JUST SECURITY (JULY 10, 2017), [HTTPS://WWW.JUSTSECURITY.ORG/42956/OPEN-DOOR-MOSCOW-FACTS-POTENTIAL-CRIMINAL-CASE-TRUMP-CAMPAIGN-COORDINATION-RUSSIA/](https://www.justsecurity.org/42956/open-door-moscow-facts-potential-criminal-case-trump-campaign-coordination-russia/).
- 69 *Id.*
- 70 52 U.S.C. § 30121(a)(1)(A).
- 71 David G. Savage, *“Did Donald Trump Jr. break the law by meeting with Russians to gain dirt on Clinton?”*, THE LOS ANGELES TIMES (JULY 11, 2017), [HTTP://WWW.LATIMES.COM/POLITICS/LA-NA-POL-TRUMP-RUSSIANS-LEGAL-ANALYSIS-20170711-STORY.HTML](http://www.latimes.com/politics/la-na-pol-trump-russians-legal-analysis-20170711-story.html).
- 72 *Id.*
- 73 *Id.*
- 74 Matt Ford, *Did Donald Trump, Jr. Break the Law?*, THE ATLANTIC (JULY 11, 2017), [HTTPS://WWW.THEATLANTIC.COM/POLITICS/ARCHIVE/2017/07/TRUMP-JR-RUSSIA-EMAIL/533304/](https://www.theatlantic.com/politics/archive/2017/07/trump-jr-russia-email/533304/).
- 75 Zack Beauchamp and Andrew Prokop, *Robert Mueller's Russia investigation, and why Trump is so afraid of it, explained*, Vox (AUGUST 3, 2017), [HTTPS://WWW.VOX.COM/WORLD/2017/7/24/16008272/ROBERT-MUELLER-FBI-TRUMP-RUSSIA-EXPLAINED](https://www.vox.com/world/2017/7/24/16008272/robert-mueller-fbi-trump-russia-explained).
- 76 Elbridge Gerry, http://avalon.law.yale.edu/18th_century/debates_531.asp.
- 77 Friedman, *supra*.
- 78 Levintova, *supra*.
- 79 *Id.*
- 80 *Id.*
- 81 *Id.*
- 82 Friedman, *supra*.
- 83 Elizabeth Weise, *Russian fake accounts showed posts to 126 million Facebook users*, USA Today (October 30, 2017), [HTTPS://WWW.USATODAY.COM/STORY/TECH/2017/10/30/RUSSIAN-FAKE-ACCOUNTS-SHOWED-POSTS-126-MILLION-FACEBOOK-USERS/815342001/](https://www.usatoday.com/story/tech/2017/10/30/russian-fake-accounts-showed-posts-126-million-facebook-users/815342001/).
- 84 *Id.*
- 85 Craig Silverman, *This Analysis Shows How Viral Fake Election News Stories Outperformed Real News On Facebook*, BUZZFEED (NOVEMBER 16, 2016), [HTTPS://WWW.BUZZFEED.COM/CRAIGSILVERMAN/VIRAL-FAKE-ELECTION-NEWS-OUTPERFORMED-REAL-NEWS-ON-FACEBOOK?UTM_TERM=.DT6RMLo8V#.spjJZ6pOX](https://www.buzzfeed.com/craigsilverman/viral-fake-election-news-outperformed-real-news-on-facebook?utm_term=.dt6rMLo8V#.spjJZ6pOX).
- 86 Josh Constine, *Facebook tries fighting fake news with publisher info button on links*, TECHCRUNCH (OCTOBER 5, 2017), [HTTPS://TECHCRUNCH.COM/2017/10/05/FACEBOOK-ARTICLE-INFORMATION-BUTTON/](https://techcrunch.com/2017/10/05/facebook-article-information-button/).
- 87 *Id.*
- 88 Gabby Morrongiello, *Trump: Press makes up 'sources' to feed anti-Trump news*, THE WASHINGTON EXAMINER (FEBRUARY 24, 2017), [HTTP://WWW.WASHINGTONEXAMINER.COM/TRUMP-PRESS-MAKES-UP-SOURCES-TO-FEED-ANTI-TRUMP-NEWS/ARTICLE/2615669](http://www.washingtonexaminer.com/trump-press-makes-up-sources-to-feed-anti-trump-news/article/2615669).
- 89 *Id.*
- 90 Dylan Byers, Sara Murray and Kevin Liptak, *White House blocks news organizations from press briefing*, CNN (FEBRUARY 24, 2017), [HTTP://MONEY.CNN.COM/2017/02/24/MEDIA/CNN-BLOCKED-WHITE-HOUSE-GAGGLE/](http://money.cnn.com/2017/02/24/media/cnn-blocked-white-house-gaggle/).
- 91 Brian Stelter, *With cameras banned, CNN sends sketch artist to White House briefing*, CNN (JUNE 24, 2017), [HTTP://MONEY.CNN.COM/2017/06/23/MEDIA/WHITE-HOUSE-PRESS-BRIEFING-SKETCH-ARTIST/INDEX.HTML](http://money.cnn.com/2017/06/23/media/white-house-press-briefing-sketch-artist/index.html).
- 92 CNBC (MAY 17, 2017), [HTTPS://WWW.CNBC.COM/2017/05/16/TRUMP-ALLEGEDLY-ASKED-COMEY-TO-CONSIDER-IMPRISONING-MEMBERS-OF-THE-PRESS.HTML](https://www.cnbc.com/2017/05/16/trump-allegedly-asked-omey-to-consider-imprisoning-members-of-the-press.html).
- 93 Joanna Walters, *Trump has declared war': journalists denounce any attack on press freedom*, THE GUARDIAN (MAY 21, 2017), [HTTPS://WWW.THEGUARDIAN.COM/US-NEWS/2017/MAY/21/TRUMP-THREAT-REPORTERS-PRESS-FREEDOM](https://www.theguardian.com/us-news/2017/may/21/trump-threat-reporters-press-freedom).
- 94 Martin Pengelly and Joanna Walters, *Trump accused of encouraging attacks on journalists with CNN body-slam tweet*, THE GUARDIAN (JULY 2, 2017), [HTTPS://WWW.THEGUARDIAN.COM/US-NEWS/2017/JUL/02/TRUMP-BODY-SLAM-CNN-TWEET-VIOLENCE-REPORTERS-WRESTLEMANIA](https://www.theguardian.com/us-news/2017/jul/02/trump-body-slam-cnn-tweet-violence-reporters-wrestlemania).
- 95 *Id.*
- 96 <https://twitter.com/realDonaldTrump/status/889435104841523201>
- 97 <https://twitter.com/realDonaldTrump/status/918112884630093825>
- 98 George Mason, <https://books.google.com/books?id=osbZAAAAMAAJ&pg=PA484>.
- 99 U.S. Const. art. I, § 9, cl. 8.
- 100 Ron Fein and Brianne Gorod, *Lining Trump's Pockets*, US NEWS AND WORLD REPORT (MARCH 21, 2017), [HTTPS://WWW.USNEWS.COM/OPINION/ARTICLES/2017-03-21/PRESIDENT-DONALD-TRUMP-HAS-ALSO-GOT-A-DOMESTIC-EMOLUMENTS-CLAUSE-PROBLEM](https://www.usnews.com/opinion/articles/2017-03-21/president-donald-trump-has-also-got-a-domestic-emoluments-clause-problem).
- 101 Common Cause, *“State of the Swamp,”* <http://www.stateoftheswamp.com>.

- 102 Walter Shaub, Jr., *Remarks at the Brookings Institution* (January 11, 2017), <https://www.oge.gov/web/oge.nsf/Resources/The+Full+Text+of+Director+Shaub%E2%80%99s+Remarks+at+the+Brookings+Institution+on+January+11,+2017>.
- 103 Mike McIntire, *Russia Renewed Unused Trump Trademarks in 2016*, THE NEW YORK TIMES (JUNE 18, 2017), [HTTPS://WWW.NYTIMES.COM/2017/06/18/US/POLITICS/RUSSIA-TRUMP-TRADEMARKS.HTML](https://www.nytimes.com/2017/06/18/us/politics/russia-trump-trademarks.html).
- 104 Jeremy Venook, *Trump's Been Talking About His Business Interests in Russia for 30 Years*, THE ATLANTIC (MAY 10, 2017), [HTTPS://WWW.THEATLANTIC.COM/BUSINESS/ARCHIVE/2017/05/TRUMP-LAWYERS-UP-CONFLICTS-OF-INTEREST/526185/](https://www.theatlantic.com/business/archive/2017/05/trump-lawyers-up-conflicts-of-interest/526185/).
- 105 *Id.*
- 106 *Id.*
- 107 *Id.*
- 108 *Id.*
- 109 Tom Hamburger, Rosalind S. Helderman, and Michael Birnbaum, *Inside Trump's financial ties to Russia and his unusual flattery of Vladimir Putin*, THE WASHINGTON POST (JUNE 17, 2016), [HTTPS://WWW.WASHINGTONPOST.COM/POLITICS/INSIDE-TRUMPS-FINANCIAL-TIES-TO-RUSSIA-AND-HIS-UNUSUAL-FLATTERY-OF-VLADIMIR-PUTIN/2016/06/17/DBDCAAC8-31A6-11E6-8FF7-7B6C1998B7A0_STORY.HTML](https://www.washingtonpost.com/politics/inside-trumps-financial-ties-to-russia-and-his-unusual-flattery-of-vladimir-putin/2016/06/17/dbdcaac8-31a6-11e6-8ff7-7b6c1998b7a0_story.html).
- 110 Timothy L. O'Brien, *Trump, Russia and a Shadowy Business Partnership*, BLOOMBERG VIEW (JUNE 21, 2017), [HTTPS://WWW.BLOOMBERG.COM/VIEW/ARTICLES/2017-06-21/TRUMP-RUSSIA-AND-THOSE-SHADOWY-SATER-DEALS-AT-BAYROCK](https://www.bloomberg.com/view/articles/2017-06-21/trump-russia-and-those-shadowy-sater-deals-at-bayrock).
- 111 *Id.*
- 112 Venook, *supra*.
- 113 *Id.*
- 114 *Id.*
- 115 *Id.*
- 116 *Id.*
- 117 Glenn Garvin, *Donald Trump and the mansion that no one wanted*, THE MIAMI HERALD (FEBRUARY 27, 2017) [HTTP://WWW.MIAMIHERALD.COM/NEWS/BUSINESS/ARTICLE135187364.HTML](http://www.miamiherald.com/news/business/article135187364.html)
- 118 Beauchamp et al., *supra*.
- 119 Michael S. Schmidt and Matt Apuzzo, *Mueller Seeks to Talk to Intelligence Officials, Hinting at Inquiry of Trump*, THE NEW YORK TIMES (JUNE 14, 2017), [HTTPS://WWW.NYTIMES.COM/2017/06/14/US/POLITICS/MUELLER-TRUMP-SPECIAL-COUNSEL-INVESTIGATION.HTML](https://www.nytimes.com/2017/06/14/us/politics/mueller-trump-special-counsel-investigation.html).
- 120 Jeff Nesbit, *Donald Trump's Many, Many, Many, Many Ties to Russia*, TIME (AUGUST 2, 2016), [HTTP://TIME.COM/4433880/DONALD-TRUMP-TIES-TO-RUSSIA/](http://time.com/4433880/donald-trump-ties-to-russia/)
- 121 *Id.*
- 122 *Id.*
- 123 O'Brien, *supra*.
- 124 Allan J. Lichtman, *Here's A Closer Look At Donald Trump's Disturbingly Deep Ties To Russia*, FORTUNE (MAY 17, 2017), [HTTP://FORTUNE.COM/2017/05/17/DONALD-TRUMP-RUSSIA-2/](http://fortune.com/2017/05/17/donald-trump-russia-2/)
- 125 *Id.*
- 126 Noah Kirsch, *Exclusive: Powerful Russian Partner Boasts of Ongoing Access to Trump Family*, FORBES (MARCH 20, 2017), [HTTPS://WWW.FORBES.COM/SITES/NOAHKIRSCH/2017/03/20/RUSSIAN-BILLIONAIRE-FAMILY-TRUMP-TIES-ONGOING/#281BF5BF69E3](https://www.forbes.com/sites/noahkirsch/2017/03/20/russian-billionaire-family-trump-ties-ongoing/#281bf5bf69e3)
- 127 *Here's the preliminary deal to bring a Trump Tower to Moscow*, CNN (SEPTEMBER 8, 2017), [HTTP://WWW.CNN.COM/2017/09/08/POLITICS/TRUMP-MOSCOW-DOCUMENT/INDEX.HTML](http://www.cnn.com/2017/09/08/politics/trump-moscow-document/index.html).
- 128 Natasha Bertrand, *Report: Russian bank whose CEO met secretly with Jared Kushner helped finance Trump's Toronto hotel*, BUSINESS INSIDER (MAY 17, 2017), [HTTP://WWW.BUSINESSINSIDER.COM/RUSSIAN-VNESHECONOMBANK-TRUMP-TORONTO-HOTEL-2017-5](http://www.businessinsider.com/russian-vnesheconombank-trump-toronto-hotel-2017-5).
- 129 McIntire, *supra*.
- 130 *Id.*
- 131 Drew Harwell and Tom Hamburger, *Despite promise, Trump's business offers little information about foreign profits*, THE WASHINGTON POST (MAY 24, 2017), [HTTPS://WWW.WASHINGTONPOST.COM/BUSINESS/ECONOMY/DESPITE-PROMISE-TRUMPS-BUSINESS-OFFERS-LITTLE-INFORMATION-ABOUT-FOREIGN-PROFITS/2017/05/24/E4667DA4-4091-11E7-9869-BAC8B446820A_STORY.HTML?UTM_TERM=.8BAFFF9D5681](https://www.washingtonpost.com/business/economy/despite-promise-trumps-business-offers-little-information-about-foreign-profits/2017/05/24/e4667da4-4091-11e7-9869-bac8b446820a_story.html?utm_term=.8bafff9d5681).
- 132 *Id.*
- 133 *Id.*
- 134 George Mason and James Madison, <https://www.bloomberg.com/view/articles/2017-08-08/the-plain-answer-to-the-trump-pardon-question>.
- 135 Matthew Rosenberg, Adam Goldman, and Matt Apuzzo, *Top Russian Officials Discussed How to Influence Trump Aides Last Summer*, THE NEW YORK TIMES (MAY 24, 2017), [HTTPS://WWW.NYTIMES.COM/2017/05/24/US/POLITICS/RUSSIA-TRUMP-MANAFORT-FLYNN.HTML](https://www.nytimes.com/2017/05/24/us/politics/russia-trump-manafort-flynn.html).
- 136 Michael D. Shear, Mark Landler, Matt Apuzzo, Eric Lightblau, *Trump Fires Acting Attorney General Who Defied Him*, THE NEW YORK TIMES (JANUARY 30, 2017), [HTTPS://WWW.NYTIMES.COM/2017/01/30/US/POLITICS/TRUMP-IMMIGRATION-BAN-MEMO.HTML](https://www.nytimes.com/2017/01/30/us/politics/trump-immigration-ban-memo.html).
- 137 Maggie Haberman, Matthew Rosenberg, Matt Apuzzo, and Glenn Thrush, *Michael Flynn Resigns as National Security Adviser*, THE NEW YORK TIMES (FEBRUARY 13, 2017), [HTTPS://WWW.NYTIMES.COM/2017/02/13/US/POLITICS/DONALD-TRUMP-NATIONAL-SECURITY-ADVISER-MICHAEL-FLYNN.HTML](https://www.nytimes.com/2017/02/13/us/politics/donald-trump-national-security-adviser-michael-flynn.html).
- 138 Ryan Lizza, *Preserving the Russia Investigation: A Preview of Our Interview the Sally Yates*, THE NEW YORKER (MAY 16, 2017), [HTTPS://WWW.NEWYORKER.COM/NEWS/NEWS-DESK/PRESERVING-THE-RUSSIA-INVESTIGATION-A-PREVIEW-OF-OUR-INTERVIEW-WITH-SALLY-YATES](https://www.newyorker.com/news/news-desk/preserving-the-russia-investigation-a-preview-of-our-interview-with-sally-yates).
- 139 *Id.*

- 140 Maggie Haberman and Charlie Savage, *U.S. Attorney Preet Bharara Says He Was Fired After Refusing to Quit*, *THE NEW YORK TIMES* (MARCH 11, 2017), [HTTPS://WWW.NYTIMES.COM/2017/03/11/US/POLITICS/PREET-BHARARA-US-ATTORNEY.HTML](https://www.nytimes.com/2017/03/11/us/politics/preet-bharara-us-attorney.html).
- 141 Beauchamp et al., *supra*.
- 142 *Id.*
- 143 Haberman & Savage, *supra*.
- 144 David Shortell and Manu Raju, *Trump met with US attorney candidates with connections to law firms of close confidantes*, *CNN* (OCTOBER 19, 2017), [HTTP://WWW.CNN.COM/2017/07/20/POLITICS/DONALD-TRUMP-JESSIE-LIU-DC-US-ATTORNEY/INDEX.HTML](http://www.cnn.com/2017/07/20/politics/donald-trump-jessie-liu-dc-us-attorney/index.html).
- 145 Laura Jarrett, *President Has Rare Meeting With US Attorney Nominee*, *CNN* (JULY 20, 2017), [HTTP://WWW.CNN.COM/2017/07/20/POLITICS/DONALD-TRUMP-JESSIE-LIU-DC-US-ATTORNEY/INDEX.HTML](http://www.cnn.com/2017/07/20/politics/donald-trump-jessie-liu-dc-us-attorney/index.html).
- 146 <https://twitter.com/realdonaldtrump/status/837989835818287106>.
- 147 Matthew Rosenberg, Adam Goldman, and Emmarie Huetteman, *Monitoring May Have ‘Incidentally’ Picked Up Trump Aides, House Member Says*, *THE NEW YORK TIMES* (MARCH 22, 2017), [HTTPS://WWW.NYTIMES.COM/2017/03/22/US/POLITICS/DEVIN-NUNES-WIRETAPPING-TRUMP.HTML](https://www.nytimes.com/2017/03/22/us/politics/devin-nunes-wiretapping-trump.html).
- 148 Matthew Nussbaum, *Justice Department: No evidence Obama wiretapped Trump Tower*, *POLITICO* (SEPTEMBER 2, 2017), [HTTP://WWW.POLITICO.COM/STORY/2017/09/02/OBAMA-TRUMP-TOWER-WIRETAP-NO-EVIDENCE-242284](http://www.politico.com/story/2017/09/02/obama-trump-tower-wiretap-no-evidence-242284).
- 149 Michael S. Schmidt, *In a Private Dinner, Trump Demanded Loyalty, Comey Demurred*, *THE NEW YORK TIMES* (MAY 11, 2017), [HTTPS://WWW.NYTIMES.COM/2017/05/11/US/POLITICS/TRUMP-COMEY-FIRING.HTML?_R=0](https://www.nytimes.com/2017/05/11/us/politics/trump-comey-firing.html?_r=0).
- 150 Michael D. Shear and Matt Apuzzo, *FBI Director James Comey is Fired by Trump*, *THE NEW YORK TIMES* (MAY 9, 2017), [HTTPS://WWW.NYTIMES.COM/2017/05/09/US/POLITICS/JAMES-COMEY-FIRED-FBI.HTML](https://www.nytimes.com/2017/05/09/us/politics/james-comey-fired-fbi.html).
- 151 Schmidt, *supra*.
- 152 *Id.*
- 153 Devlin Barrett, Adam Entous, Ellen Nakashima, and Sari Horwitz, *Special counsel is investigating Trump for possible obstruction of justice, officials say*, *THE WASHINGTON POST* (JUNE 14, 2017), [HTTPS://WWW.WASHINGTONPOST.COM/WORLD/NATIONAL-SECURITY/SPECIAL-COUNSEL-IS-INVESTIGATING-TRUMP-FOR-POSSIBLE-OBSTRUCTION-OF-JUSTICE/2017/06/14/9CE02506-5131-11E7-B064-828BA60FBB98_STORY.HTML](https://www.washingtonpost.com/world/national-security/special-counsel-is-investigating-trump-for-possible-obstruction-of-justice/2017/06/14/9ce02506-5131-11e7-b064-828ba60fbb98_story.html).
- 154 Ashley Parker, Carol D. Leonnig, Philip Rucker, and Tom Hamburger, *Trump dictated son’s misleading statement on meeting with Russian lawyer*, *THE WASHINGTON POST* (JULY 31, 2017), [HTTPS://WWW.WASHINGTONPOST.COM/POLITICS/TRUMP-DICTATED-SONS-MISLEADING-STATEMENT-ON-MEETING-WITH-RUSSIAN-LAWYER/2017/07/31/04C94F96-73AE-11E7-8F39-EEB7D3A2D304_STORY.HTML?UTM_TERM=.F2D2412A46D8](https://www.washingtonpost.com/politics/trump-dictated-sons-misleading-statement-on-meeting-with-russian-lawyer/2017/07/31/04c94f96-73ae-11e7-8f39-eeb7d3a2d304_story.html?utm_term=.f2d2412a46d8).
- 155 *Id.*
- 156 *Id.*
- 157 PBS NewsHour (JUNE 12, 2017), [HTTP://WWW.PBS.ORG/NEWSHOUR/RUNDOWN/TRUMP-CONFIDANT-THINK-HES-CONSIDERING-PERHAPS-TERMINATING-SPECIAL-COUNSEL/](http://www.pbs.org/newshour/rundown/trump-confidant-think-hes-considering-perhaps-terminating-special-counsel/).
- 158 Morgan Chalfant, *Trump Mueller Tensions Escalate*, *THE HILL* (JULY 20, 2017), [HTTP://THEHILL.COM/POLICY/NATIONAL-SECURITY/343016-TRUMP-MUELLER-TENSIONS-ESCALATE](http://thehill.com/policy/national-security/343016-trump-mueller-tensions-escalate).
- 159 Carol D. Leonnig, Ashley Parker, Rosalind S. Helderman, Tom Hamburger, *Trump team seeks to control, block Mueller’s Russia investigation*, *THE WASHINGTON POST* (JULY 21, 2017), [HTTPS://WWW.WASHINGTONPOST.COM/POLITICS/TRUMPS-LAWYERS-SEEK-TO-UNDERCUT-MUELLERS-RUSSIA-INVESTIGATION/2017/07/20/232EBF2C-6D71-11E7-B9E2-2056E768A7E5_STORY.HTML?UTM_TERM=.E7766EE7DCA1](https://www.washingtonpost.com/politics/trumps-lawyers-seek-to-undercut-muellers-russia-investigation/2017/07/20/232ebf2c-6d71-11e7-b9e2-2056e768a7e5_story.html?utm_term=.e7766ee7dca1).
- 160 Chalfant, *supra*.
- 161 *Id.*
- 162 Allan Smith, *Trump lashes out at his deputy attorney general for being from Baltimore – and he is not from Baltimore*, *BUSINESS INSIDER* (JULY 20, 2017), [HTTP://WWW.BUSINESSINSIDER.COM/TRUMP-ROD-ROSENSTEIN-BALTIMORE-2017-7](http://www.businessinsider.com/trump-rod-rosenstein-baltimore-2017-7).
- 163 Nolan D. McCaskill and Louis Nelson, *Trump coy on Sessions’ future: ‘Time will tell’*, *POLITICO* (JULY 25, 2017), [HTTP://WWW.POLITICO.COM/STORY/2017/07/25/TRUMP-JEFF-SESSIONS-WILL-HE-RESIGN-240930](http://www.politico.com/story/2017/07/25/trump-jeff-sessions-will-he-resign-240930).
- 164 *Id.*
- 165 Leonnig, et al., *supra*.
- 166 Peter Baker, *Trump Says He Has “Complete Power” to Pardon*, *THE NEW YORK TIMES* (JULY 22, 2017), [HTTPS://WWW.NYTIMES.COM/2017/07/22/US/POLITICS/DONALD-TRUMP-JEFF-SESSIONS.HTML](https://www.nytimes.com/2017/07/22/us/politics/donald-trump-jeff-sessions.html).
- 167 Nina Totenberg, *Could Trump Pardon Himself? Probably Not*, *NPR* (July 29, 2017), [HTTP://WWW.NPR.ORG/2017/07/29/539856280/could-trump-pardon-himself-probably-not](http://www.npr.org/2017/07/29/539856280/could-trump-pardon-himself-probably-not).
- 168 *Id.*
- 169 Washington’s Farewell Address, http://avalon.law.yale.edu/18th_century/washing.asp.
- 170 Richard A. Clarke and Robert K. Knake, *The Russians Will Be Back. Will We Be Ready?*, *POLITICO* (July 13, 2017), [HTTP://WWW.POLITICO.COM/MAGAZINE/STORY/2017/07/13/RUSSIA-US-ELECTION-SECURITY-REFORM-215367](http://www.politico.com/magazine/story/2017/07/13/russia-us-election-security-reform-215367).
- 171 *Id.*



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