

TY CLEVINGER

P.O. Box 20753
Brooklyn, New York 11202-0753

telephone: 979.985.5289
facsimile: 979.530.9523

tyclevenger@yahoo.com
Texas Bar No. 24034380

October 12, 2019

The Hon. William Barr, Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
[REDACTED]

The Hon. John H. Durham, U.S. Attorney
District of Connecticut
157 Church Street, Floor 25
New Haven, Connecticut 06510
[REDACTED]

Michael E. Horowitz, Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue NW, Suite 4706
Washington, DC 20530
[REDACTED]

Re: Preservation of evidence

General Barr, Mr. Durham, and General Horowitz:

I write regarding evidence that the Department of Justice very much needs to see for purposes of its "Russian collusion" investigation, evidence which may soon be destroyed. The evidence in question was obtained during discovery in [REDACTED] and [REDACTED], wherein my colleague [REDACTED] represents [REDACTED]. The parties are currently attempting to settle [REDACTED], and it is likely that [REDACTED] will be required to return and/or destroy evidence in their possession. Accordingly, I urge you to obtain a *subpoena duces tecum* or make other arrangements to secure that evidence from [REDACTED] as quickly as possible.

I am virtually certain that the Department of Justice has never seen the evidence in question, but I cannot describe the evidence in any detail because it is covered by a protective order. In fact, my client has not seen the evidence because it

is designated “attorneys’ eyes only.” Nonetheless, I believe 18 U.S.C. § 4 (misprision of a felony) obligates me to make you aware of the evidence.

Relatedly, I write concerning the attached October 7, 2020 email from John Eckenrode [REDACTED]. In that email, Mr. Eckenrode indicates that U.S. Attorney John Durham will not be investigating whether former Democratic National Committee employee Seth Rich provided DNC emails to Wikileaks in 2016. Instead, Mr. Durham intends to defer to the Executive Office for U.S. Attorneys and the FBI’s internal inspection division. In essence, one of the agencies at the heart of the “Russian collusion” narrative, *i.e.*, the FBI, will be allowed to investigate itself.

According to Mr. Eckenrode’s email, Mr. Durham’s review is broad, but “also limited so as to focus our resources on specific areas that appear to have a direct bearing on questions that have been raised in this matter.” The implication in Mr. Eckenrode’s email is that inquiry into a possible internal, non-Russian, source for the emails leaked to Wikileaks does not have a direct bearing on Mr. Durham’s investigation. I respectfully disagree with that conclusion, and I urge General Barr to specially appoint another United States Attorney to investigate this matter fully and to assist Mr. Durham’s larger investigation, as he did when appointing U.S. Attorneys John Bash and Jeff Jensen. The circumstances surrounding the DNC email leaks is just as relevant to Mr. Durham’s investigation as the “unmasking” that Mr. Bash was assigned to investigate, and at least as relevant as Mr. Jensen’s review of the Gen. Michael Flynn case.

First, Robert Mueller himself acknowledged the possibility that the DNC emails were not transmitted remotely by email to Wikileaks, but were provided by hand delivery from someone originating in the United States. *See* Report of Special Counsel, at 47 (“The Office cannot rule out that stolen documents were transferred to WikiLeaks through intermediaries”). Ellen Ratner publicly stated, shortly after visiting Julian Assange in the Ecuadorian embassy in November of 2016, that Mr. Assange had told her the source of the emails was internal to the DNC. *See* https://www.youtube.com/watch?v=_WG6vhc-Nhs&feature=youtu.be. Even the now-discredited Steele report suggested that internal DNC moles were working with the Russians in the alleged hacking of the DNC. Steele Dossier at 7 (“Trump’s team [was] using moles within the DNC and hackers in the US as well as outside in Russia”). Finally, as you know, Shawn Henry of Crowdstrike has testified under oath that Crowdstrike did not observe any exfiltration of emails from the DNC, but that he observed “preparation for exfiltration,” which would be consistent with an observation of a local download to a DNC user. Thus, the question of whether a DNC insider, and not the Russians, was the source of the email leak to Wikileaks is central to the investigation of Mr. Durham. Even if it is found that the Russians were also present in the DNC servers, the failure of the relevant agencies to investigate thoroughly the possibility of an internal source is an indication of the type of result-

driven, error-ridden and highly damaging investigative work identified by Inspector General Horowitz in his review of various FISA abuses.

Beginning back in January 2017, [REDACTED] information from Seymour Hersh, a Pulitzer Prize-winning journalist, that one of his sources had received information from an FBI report stating that Seth Rich had leaked emails to Wikileaks, requested payment and made copies of the emails as a precautionary measure. During his recent deposition in a case pending in the District Court for the District of Columbia, my colleague, [REDACTED], obtained admissions from Mr. Hersh that his source was “very, very knowledgeable,” “incredibly accurate,” “trusted,” someone “senior” in the intelligence community, and a person Mr. Hersh had known for over 30 years. Mr. Hersh also admitted that it was “absolutely true” that his source had communicated information that Seth Rich transmitted emails to Wikileaks, requested payment and made copies of the relevant emails to secure his protect. In the course of the litigation in which [REDACTED] and I have been involved, various experts have thoroughly debunked the central notion, relied upon by the ICA and the Mueller team, that Guccifer 2.0 was the source of the allegedly hacked emails. They have also provided detailed analysis of the DNC email metadata establishing conclusively, from a forensic standpoint, that the leaked emails could not have been remotely hacked, but must have been locally downloaded. All of that information is consistent with the view that Seth Rich was the source of the leaked emails.

As I have indicated in prior correspondence, we obtained clear evidence that the FBI was hiding records about Seth Rich and then lying about the existence of those records. The FBI had insisted to us that it did not investigate matters pertaining to Seth Rich, but the Assistant United States Attorney responsible for the Seth Rich murder investigation later confirmed that the FBI did, in fact, perform some sort of an analysis of Seth Rich’s electronic device(s), apparently in connection with allegations that third parties were seeking to hack into Seth Rich’s accounts and “plant” evidence of communications with Wikileaks. Deposition of Deborah Sines, dated March 20, 38:13-25-39:1-24. Just recently, NPR published a story stating that a federal judge had ordered Twitter to divulge the identity of an individual believed to have circulated a “fake” FBI report. However, the “fake” FBI report is something that began circulating long *after* Sy Hersh’s communications with my client. It is highly unlikely that a senior intelligence official who was very, very knowledgeable, incredibly accurate and a trusted source of a Pulitzer Prize-winning journalist would have been deceived by a “fake” report. A motion to compel Mr. Hersh to disclose his source is currently pending in the D.C. District Court, but Mr. Hersh is likely to be able to claim either a constitutional or a D.C. statutory privilege to prevent disclosure of the source. Incredibly, Mr. Hersh stated during his deposition that he had not been contacted by anyone from the Office of the Special Counsel, from the Attorney

General's office or from the team of Mr. Durham.¹ Interviewing Mr. Hersh's source and locating and assessing the FBI report relating to Seth Rich would appear to be tasks of the greatest importance for Mr. Durham's investigation.

Please do not hesitate to contact me if you have any questions or if I can be of any further assistance. Thank you in advance for your consideration.²

Sincerely,



Ty Clevenger

cc: The Hon. Devin Nunes, Ranking Member
Permanent Select Committee on Intelligence
U.S. House of Representatives

¹ Likewise, no one from the Office of the Special Counsel made any attempt to interview Julian Assange, even though Mr. Assange publicly inferred that he obtained the DNC emails from Seth Rich. See August 9, 2018 Interview of Julian Assange, <https://www.youtube.com/watch?v=Kp7FkLBRpKg>. As far as I can determine, nobody from Mr. Durham's team, the FBI, nor the Justice Department has made any attempt to interview Mr. Assange since that time, even though Mr. Assange would know better than anyone else how and from whom he obtained the emails.

²

