

## How Comey intervened to kill WikiLeaks' immunity deal

By John Solomon

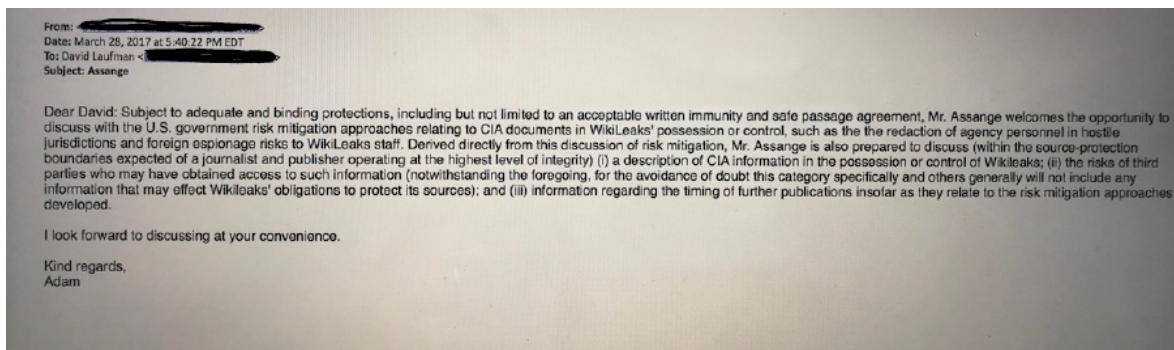
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One of the more devastating intelligence leaks in American history — the unmasking of the CIA's arsenal of cyber warfare weapons last year — has an untold prelude worthy of a spy novel.

Some of the characters are household names, thanks to the Russia scandal: [James Comey](#), fired FBI director. Sen. [Mark Warner](#) (D-Va.), vice chairman of the Senate Intelligence Committee. Department of Justice (DOJ) official Bruce Ohr. Julian Assange, grand master of WikiLeaks. And American attorney Adam Waldman, who has a Forrest Gump-like penchant for showing up in major cases of intrigue.

Each played a role in the early days of the Trump administration to try to get Assange to agree to “risk mitigation” — essentially, limiting some classified CIA information he might release in the future.

The effort resulted in the drafting of a limited immunity deal that might have temporarily freed the WikiLeaks founder from a London embassy where [he has been exiled](#) for years, according to interviews and a trove of internal DOJ documents turned over to Senate investigators. Read the draft immunity deal proffer that the Justice Department was considering for Assange [here](#).



But an unexpected intervention by Comey — relayed through Warner — soured the negotiations, multiple sources tell me. Assange eventually unleashed a series of leaks that U.S. officials say damaged their cyber warfare capabilities for a long time to come.

This yarn begins in January 2017 when Assange's legal team approached Waldman — known for his government connections — to see if the new Trump administration would negotiate with the WikiLeaks founder, holed up in Ecuador's London embassy. They hoped Waldman, a former Clinton Justice Department official, might navigate the U.S. law enforcement bureaucracy and find the right people to engage.

Waldman had helped Russian oligarch Oleg Deripaska to assist the FBI from 2009 to 2011 in [searching for a retired FBI agent](#) captured in Iran; the FBI rewarded Deripaska by granting him entry to the United States after years of being banned. Waldman also arranged evidence from Hollywood players such as Johnny Depp that helped prosecutors in a U.S. corruption case against Malaysian figures, sources told me.

Waldman was asked by Assange's team to work pro bono, and he did.

Assange had a bargaining chip: The U.S. government knew he had a massive trove of documents from classified CIA computers, identifying sensitive assets and chronicling the agency's offensive cyber warfare weapons.

Waldman contacted Ohr, a Justice official he'd met during the Russia election case. They talked by phone and encrypted text messages in early January, then met Feb. 3, 2017, in Washington, records show. In between, Waldman met three times with Assange in London.

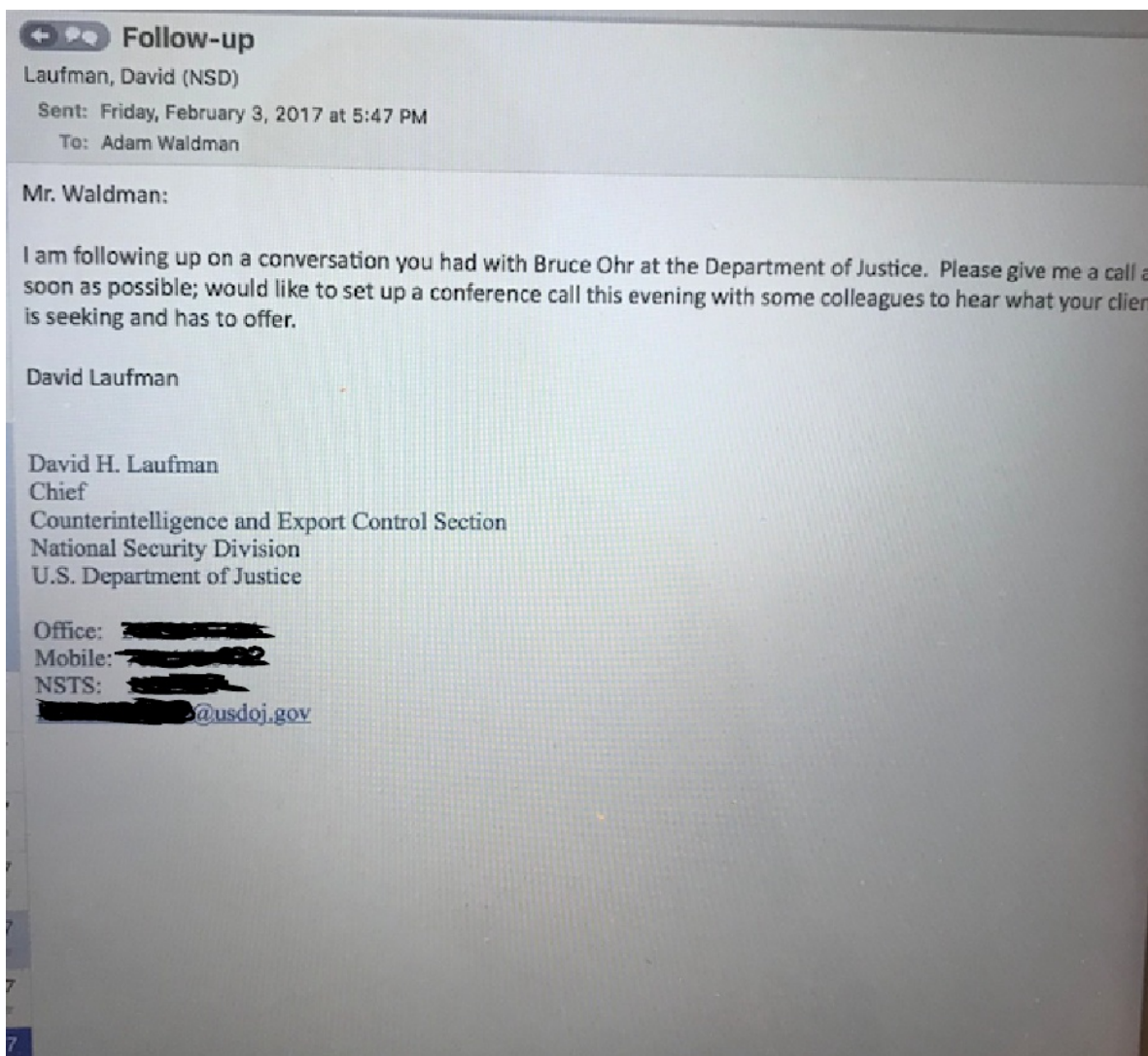


Ohr consulted his chain of command and the intelligence community about what appeared to be an extraordinary overture that raised hopes the government could negotiate what Assange would release and what he might redact, to protect the names of exposed U.S. officials.

Assange made clear through the lawyer that he would never compromise his sources, or stop publishing information, but was willing to consider concessions like redactions.

Although the intelligence community reviled Assange for the damage his past releases caused, officials “understood any visibility into his thinking, any opportunity to negotiate any redactions, was in the national security interest and worth taking,” says a senior official involved at the time.

Justice officials picked David Laufman, an accomplished federal prosecutor and then head of Justice’s counterintelligence and export controls section, to lead the negotiations. Within 24 hours of the Ohr meeting, Waldman contacted Laufman.



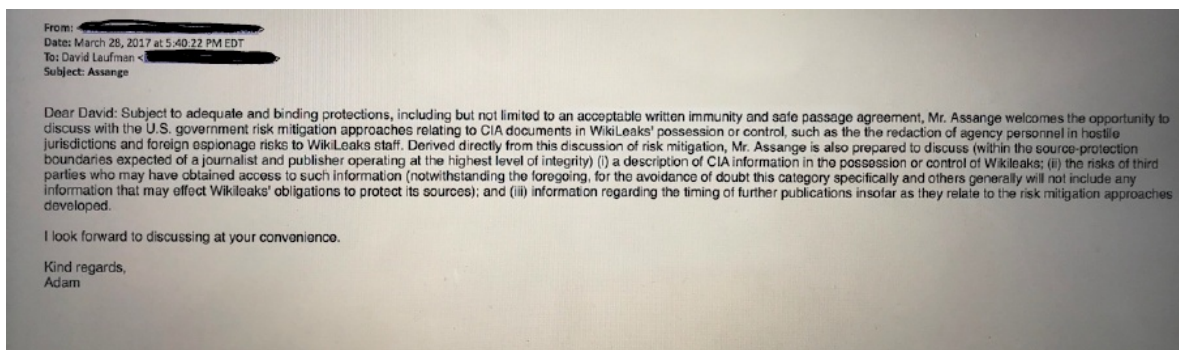
Laufman described what the government might want to achieve, and Waldman laid the groundwork for a deal to give Assange limited immunity and a one-time “safe passage” to leave the London embassy and talk with U.S. officials. Laufman played

to Assange's belief that he was a publisher, the documents show; he put an offer on the table from the intelligence community to help Assange assess how some hostile foreign powers might be infiltrating or harming WikiLeaks staff.

As the negotiations warmed, Assange [unleashed his first leak](#) on March 7, 2017, with about 8,000 pages of documents on the CIA's cyber weapons. It did not deter the talks, however, since U.S. officials were more concerned about what he might release next.

"Dear David, I relayed our conversations to Assange and he had a generally positive view of it," Waldman wrote Laufman in mid-March.

The shuttle diplomacy soon resulted in an informal offer — known in government parlance as a "Queen for a Day" proffer — in which Assange identified what he wanted and what he might give.



"Subject to adequate and binding protections, including but not limited to an acceptable immunity and safe passage agreement, Mr. Assange welcomes the opportunity to discuss with the U.S. government risk mitigation approaches relating to CIA documents in WikiLeaks' possession or control, such as the redaction of agency personnel in hostile jurisdictions and foreign espionage risks to WikiLeaks staff," Waldman wrote Laufman on March 28, 2017.

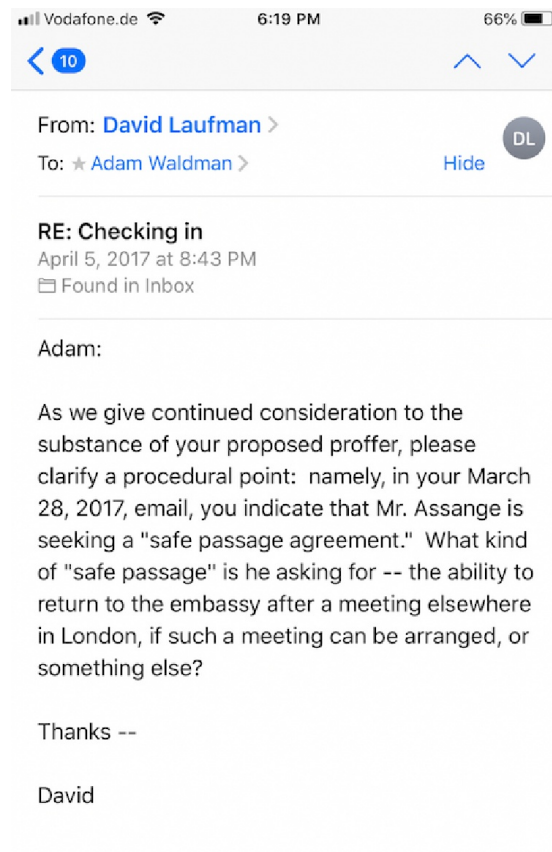
Not included in the written proffer was an additional offer from Assange: He was willing to discuss technical evidence ruling out certain parties in the controversial leak of Democratic Party emails to WikiLeaks during the 2016 election. The U.S. government believes [those emails were hacked](#) by Russia; Assange insists they did not come from Moscow.

"Mr. Assange offered to provide technical evidence and discussion regarding who did not engage in the DNC releases," Waldman told me. "Finally, he offered his technical expertise to the U.S. government to help address what he perceived as clear flaws in security systems that led to the loss of the U.S. cyber weapons program."

Inside Justice and the intelligence community, confidence grew that perhaps the mercurial Assange might adapt how he released classified information.

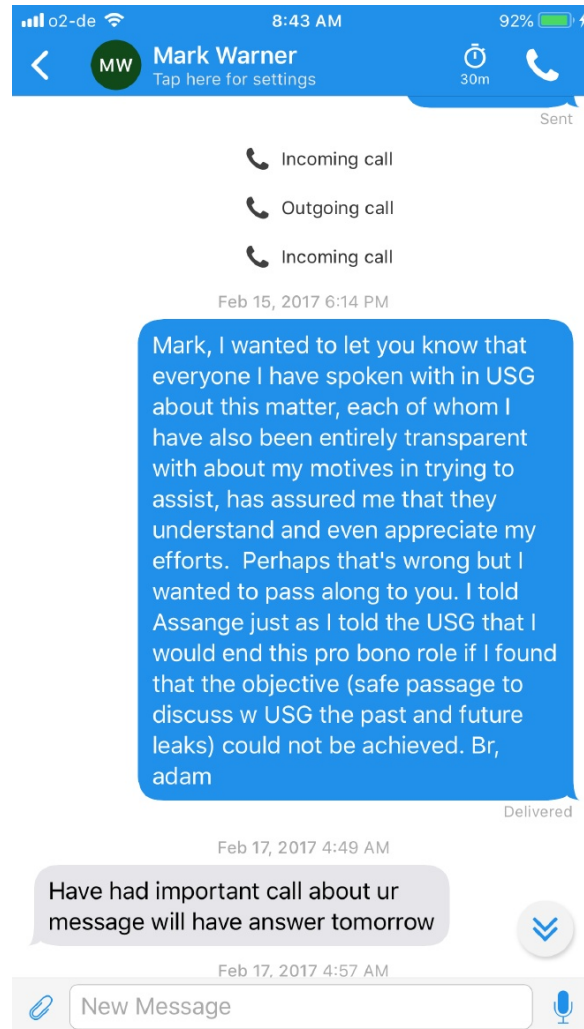
“As we give continued consideration to the substance of your proposed proffer, please clarify a procedural point,” Laufman wrote Waldman in early April. The government wanted to know if Assange’s demand for “safe passage” meant him coming to America, or just leaving the London embassy for meetings there.

What U.S. officials did not fully comprehend was that an earlier event weighed heavily on the Assange team’s distrust of U.S. intentions.



Just a few days after the negotiations opened in mid-February, Waldman reached out to Sen. Warner; the lawyer wanted to see if Senate Intelligence Committee staff wanted any contact with Assange, to ask about Russia or other issues.

Warner engaged with Waldman over encrypted text messages, then reached out to Comey. A few days later, Warner contacted Waldman with an unexpected plea.



“He told me he had just talked with Comey and that, while the government was appreciative of my efforts, my instructions were to stand down, to end the discussions with Assange,” Waldman told me. Waldman offered contemporaneous documents to show he memorialized Warner’s exact words.

Waldman couldn’t believe a U.S. senator and the FBI chief were sending a different signal, so he went back to Laufman, who assured him the negotiations were still on. “What Laufman said to me after he heard I was told to ‘stand down’ by Warner and Comey was, ‘That’s bullshit. You are not standing down and neither am I,’” Waldman recalled.

A source familiar with Warner’s interactions says the senator’s contact on the Assange matter was limited and was shared with Senate Intelligence chairman Sen. [Richard Burr](#) (R-N.C.). But the source acknowledges that Warner consulted Comey and passed along the “stand down” instructions to Waldman: “That did happen.”

Multiple sources tell me the FBI's counterintelligence team was aware and engaged in the Justice Department's strategy but could not explain what motivated Comey to send a different message around the negotiations through Warner. A lawyer for Comey did not immediately return calls seeking comment.

While the negotiations survived the Warner-Comey intervention, the episode sowed distrust in Assange's camp.

"The constructive, principled discussions with DOJ that occurred over nearly two months were complicated by the confusing 'stand down' message," Waldman recalled.

On April 7, 2017, Assange [released documents](#) with the specifics of some of the CIA malware used for cyber attacks. It had immediate impact: A furious U.S. government backed out of the negotiations, and then-CIA Director [Mike Pompeo](#) slammed WikiLeaks as a "hostile intelligence service."

Soon, the rare opportunity to engage Assange in a dialogue over redactions, a more responsible way to release information, and how the infamous DNC hacks occurred was lost — likely forever.

*John Solomon is an award-winning investigative journalist whose work over the years has exposed U.S. and FBI intelligence failures before the Sept. 11 attacks, federal scientists' misuse of foster children and veterans in drug experiments, and numerous cases of political corruption. He is The Hill's executive vice president for video.*