

# MEDIAMATTERS FOR AMERICA

## **Conservative Legal Experts: Trump Is “A Menace,” A “Lunatic,” “A Fascist Thug,” A “Useful Idiot’ For Putin,” And A Danger To “Our National Security”**

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*Scholars From Top Conservative And Libertarian Legal Blogs Warn Of Trump Presidency*

*Law professors and experts writing in two leading conservative and libertarian legal blogs are increasingly warning about the prospect of a Donald Trump presidency, arguing that his foreign policy positions and statements on Russia endanger national security and that his domestic policies could make U.S. citizens the victims of fascism.*

**Lawfare’s Benjamin Wittes: There Is “Little Choice” But To Question Trump’s Patriotism After He Called For Espionage Against The U.S.** Benjamin Wittes, editor-in-chief of the conservative legal blog Lawfare, criticized Trump’s call for “Russian intelligence services to conduct illegal espionage against his opponent,” before concluding, “I am pretty careful about not questioning people's patriotism, but when a presidential candidate calls on a foreign intelligence service to engage in operations against the United States, he leaves us little choice.” [Lawfare, [7/27/16](#)]

**Lawfare Editors: Trump Is A “Useful Idiot” For Putin Who Has “Taken Public Positions Exceedingly Favorable To Russia And Far Outside Of The American Mainstream.”** Wittes and Lawfare managing editor Susan Hennessey wrote that Trump “can be counted upon by virtue of naivete or stupidity to act on Russia’s behalf” (emphasis original):

**Question: Is Trump a “Useful Idiot” for Putin?**

**Answer: Yup.**

*The phrase “useful idiots” (полезные дураки, in Russian) is often attributed to Lenin—though probably not accurately—and refers to people in the West who can be counted upon by virtue of naivete or stupidity to act on Russia’s behalf while not being active agents. This is probably the best way to understand the relationship between Trump and Putin. The evidence of a bromance between them is uncontested. The evidence of an affinity in personality and strongman nastiness is as well.*

*Moreover, the evidence is neither contested or contestable that Trump has taken public positions exceedingly favorable to Russia and far outside of the American mainstream. As [Slate’s Franklin] Foer points out at great length in his excellent piece, Trump has repeatedly sought to do business in Russia and acquired financing from Russian sources. He has proposed Russia-friendly policies, even to the point of proposing to abandon NATO allies. He has praised Putin repeatedly. And he has surrounded himself with people who have extensive histories representing the interests of those close to Putin. Only today, Trump openly sided with Russian intelligence against the United States and urged further spying.*

*Small wonder that Russia has responded by seeking to advance Trump’s cause domestically, both by covert and overt means. Who needs an agent when you get so much for free?  
[Lawfare, 7/27/16]*

**Volokh Conspiracy’s Orin Kerr: “Fascist Thug” Trump Controlling Justice Department Would Be “Pretty Damn Frightening.”** Orin Kerr, a professor of law at George Washington University and a Federalist Society expert, wrote on the conservative blog Volokh Conspiracy that a Trump Justice Department “would be pretty damn frightening,” pointing to several warning signs, including that “Trump was really impressed by the ‘vicious’ and ‘horrible’ way that the Chinese government massacred pro-democracy protesters” (emphasis original):

*Trump’s Nixonian turn to law and order raises an important question: What would a Trump Justice Department look like?*

*It would be pretty damn frightening, I think. Trump has two long-standing passions when it comes to law and law enforcement. His first passion is the suppression of protest and dissent. And his second passion is bringing lots of legal actions against his critics and threatening many more to get his way.*

[...]

*Trump was really impressed by the “vicious” and “horrible” way that the Chinese government massacred pro-democracy protesters. Trump was disturbed when the Chinese first allowed the protest and “almost blew it.”*

[...]

*In short, if you aren’t scared, you aren’t paying attention. A fascist thug has won the GOP nomination and now has a very good shot of becoming president of the United States. And he*

*hasn't run in sheep's clothing. As Justice Antonin Scalia would say, this wolf comes as a wolf. [The Washington Post, Volokh Conspiracy, [7/22/16](#)]*

**Lawfare's Carrie Cordero: Trump Is "So Reckless In His Rhetoric That He Makes The World A Less, Not More, Secure Place."** Carrie Cordero, who served as national security advisor to Republican presidential candidate John Kasich, wrote that if Trump is president "we won't have prosperity at home if the world is ablaze":

*But as someone raised in the Midwest who has spent my professional life working on national security issues in Washington DC, I can promise you this: we won't have prosperity at home if the world is ablaze. And Donald Trump is wholly unprepared to lead the United States, and the world, when it comes to peace, security, and stability.*

[...]

*The Republican Party has stood in my lifetime for strong national security, support for the military, fiscal responsibility, individual liberty and leadership in the international arena. I would like to see that tradition continue. But we risk not only the reputation of the party, but far more importantly, the reputation of our nation globally if we vote to nominate a candidate who is so uninformed about the world, so out of touch with national security issues, and so reckless in his rhetoric that he makes the world a less, not more, secure place. [Lawfare, [5/3/16](#)]*

**Lawfare's John B. Bellinger III On Trump's Call For Muslim Ban: "He Is Actually Endangering Our National Security Right Now By His Hate-filled And Divisive Rhetoric."** John Bellinger III, who worked for the George W. Bush administration on national security issues, slammed Trump for promoting "policies that are dangerous, if not illegal, from a national security perspective":

*Donald Trump's latest outrageous statement—that all Muslims should be excluded from the United States—confirms what I expect most Lawfare readers already knew: not only does he lack the national security and foreign policy qualifications to be President, he is actually endangering our national security right now by his hate-filled and divisive rhetoric.*

[...]

*In the last several weeks, Trump has urged other policies that are dangerous, if not illegal, from a national security perspective. Last week, he said that he would target the families of ISIS terrorists: "you have to take out their families." Mr. Trump—who never served in the military—obviously does not know that targeting civilians not engaged in hostilities is a war crime. The week before, he said he would bring back waterboarding: "Would I approve waterboarding? You bet your ass I would....and even it doesn't work, they deserve it anyway for what they do to us." Someone should tell Mr. Trump that in October Congress banned the use of interrogation techniques not authorized by the Army Field Manual.*

[...]

*Donald Trump not only would be a dangerous president, he is making us less safe as a candidate. [Lawfare, 12/8/15]*

**Volokh Conspiracy's David Post On Trump's Call For Espionage Against The U.S.: "Even If This Were Meant As A Joke, What Kind Of Lunatic Would Say Something Like This?"** David Post, who is an adjunct scholar at the libertarian Cato Institute, slammed Trump's call for Russia to hack Hillary Clinton's email account, writing, "I know we're supposed to ignore all the crazy ramblings that this guy comes up with, but really . . . is there anything he can say that is beyond the pale?":

Surely this is the first time a major presidential candidate has actively encouraged a foreign power to conduct espionage against a political opponent who had been a high-ranking official of the U.S. government.

I know we're supposed to ignore all the crazy ramblings that this guy comes up with, but really . . . is there anything he can say that is beyond the pale? First a nasty and racially tinged attack on a sitting federal judge hearing a case in which he (Trump) is involved, then the appalling comments that Clinton is "guilty as hell" and "has to go to jail" (for crimes for which she has not even been charged, let alone tried and convicted or received any of that messy "due process" stuff), and now this. Even if this were meant as a joke, what kind of lunatic would say something like this? Encouraging unlawful activity by a foreign government against a former government official -- and not just any foreign government, but one that is suspected of having recently directed the cyberattack against the Democratic National Committee's email servers?

Is it really too late for the Republicans to find someone else for the job? [*The Washington Post*, Volokh Conspiracy, 7/27/16]

**Volokh Conspiracy's Ilya Somin: "Trump Is A Menace To The Republic."** George Mason University law professor and small government proponent Ilya Somin criticized recent comments about Trump made by Supreme Court Justice Ruth Bader Ginsburg but also slammed Trump, writing, "While Trump is not as bad as the Nazis and communists, he is a truly horrendous candidate nonetheless," noting that Trump "plans to massacre civilians, deport millions of people (including thousands of children who have never lived in any other country) and systematically undermine important constitutional principles":

*Supreme Court Justice Ruth Bader Ginsburg now regrets what she calls her "ill-advised" comments about likely Republican presidential nominee Donald Trump. But there is still controversy about the propriety of her comments. Like Ginsburg, I think Trump is a menace to the republic.*

[...]

*While Trump is not as bad as the Nazis and communists, he is a truly horrendous candidate nonetheless. As Butler points out, his agenda poses a serious threat to our constitutional values, and is also far worse than that of more conventional presidential candidates in other ways. A man who plans to massacre civilians, deport millions of people (including thousands of children*

*who have never lived in any other country) and systematically undermine important constitutional principles , should not be treated as if he were just any other politician.*

*[...]*

*If Ginsburg was going to violate norms to go after Trump, she should at least have attacked him on less anodyne grounds. The problem with Trump is not that he is a “faker,” but that he may well be a completely genuine advocate of a genuinely evil agenda. [The Washington Post, Volokh Conspiracy, 7/14/16]*

### **Orin Kerr Ridiculed Trump For Thinking There Is An Article XII Of The U.S.**

**Constitution.** Kerr mocked Trump for saying he wanted to “protect” the non-existent 12th article of the Constitution, writing, “Trump is just bluffing his way through this, hoping that enough people don’t notice or care”:

*The most charitable reading would be that Trump heard the question about “Article I powers” as really asking about “rights protected by the First Amendment.” On that account, we now have insight into Trump’s constitutional views. Trump apparently is a strong defender of the procedures for the selection of the President and Vice-President by the Electoral College, which is what the Twelfth Amendment provides.*

*On the other hand, the more natural reading is what a lot of us suspected already: Donald Trump doesn’t know what is in the Constitution, and he doesn’t care that he doesn’t know. Article I, Article II, Article XII, Article L. Whatever. Trump is just bluffing his way through this, hoping that enough people don’t notice or care. Because if he can get himself elected, he can exercise all the damn Article XII powers he wants. [The Washington Post, Volokh Conspiracy, 7/7/16]*