

# WHAT IF JULIAN ASSANGE FLIPPED?

I've said this before, I'll say it again: I hope to hell Chelsea Manning's advisors are cognizant of the ways her attempts to avoid testifying against Julian Assange may put her in unforeseen legal jeopardy.

I'm thinking of that anew given my consideration of what I consider to be a distant, but real, possibility: that the US government would offer Assange a plea deal on the current charge he faces in exchange for testimony in a range of other issues. The idea is crazy, but perhaps not as crazy as it sounds.

As I laid out in this post, it seems the US government has been carefully orchestrating the Assange arrest since Ecuador first applied for diplomatic status for him in 2017 in an attempt to exfiltrate him, possibly to Russia. They're now on the clock, with (depending on which expert you ask) just 44 more days to lard on the additional charges multiple outlets have reported are coming. Meanwhile, he's being held at Belmarsh, with conflicting stories about what kind of visitors he's been permitted – though the UN Special Rapporteur for Privacy did visit him this week. Though I've asked some top experts, it's not entirely clear whether, if he were being interrogated right now, that'd be under UK law or US law; the former has fewer protections against self-incrimination for people being detained.

One passage of the Mueller Report may provide an explanation for why his prosecutors didn't obtain Julian Assange's testimony.

The Office limited its pursuit of other witnesses and information-such as information known to attorneys or individuals claiming to be members of the media-in light of internal Department of Justice policies. See,

e.g., Justice Manual §§ 9-13.400, 13.410.

Assange would fall squarely within DOJ policy covering people who are subjects or targets of an investigation for activities related to their news-gathering activities.

**Member of the news media as subject or target.** In matters in which a member of the Department determines that a member of the news media is a subject or target of an investigation relating to an offense committed in the course of, or arising out of, newsgathering activities, the member of the Department requesting Attorney General authorization to use a subpoena, 2703(d) order, or 3123 order to obtain from a third party the communications records or business records of a member of the news media shall provide all facts necessary to a determination by the Attorney General regarding both whether the member of the news media is a subject or target of the investigation and whether to authorize the use of such subpoena or court order. 28 C.F.R. 50.10(c)(5)(i). If the Attorney General determines that the member of the news media is a subject or target of an investigation relating to an offense committed in the course of, or arising out of, newsgathering activities, the Attorney General's determination should take into account the principles reflected in 28 C.F.R. 50.10(a), but need not take into account the considerations identified in 28 C.F.R. 50.10(c)(5)(ii) – (viii). *Id.* **Members of the Department must consult with the PSEU regarding whether a member of the news media is a subject or target of an investigation related to an offense committed in the course of, or arising out of, newsgathering activities.**

The EDVA case appears to have gotten over this policy (perhaps by distinguishing the assistance on cracking a password from newsgathering activities); but it's not clear Mueller did (especially given the discussion of First Amendment considerations in passages relating to WikiLeaks). In any case, this calculus may change given that he's in British, not US custody.

And there has been very little reporting on what's going on with him – or with US investigations into him.

There are a number of investigations the government would love to get his testimony on, including:

## **Testimony            against Joshua    Schulte**

Schulte is the accused Vault 7 leaker. WikiLeaks has been far less circumspect about the possibility he's their source than with other leakers (while also engaging in far less of an effort to lay the case that he's a whistleblower). Plus, the government has video evidence of Schulte attempting to leak classified information.

But thus far, Schulte's prosecution has been slowed by CIA's reluctance to share the classified information Schulte needs to defend himself. Plus, the FBI apparently bolloxed up the initial search warrants for Schulte (in what I suspect was a sloppy effort at parallel construction), which Schulte has been trying to win the ability to speak publicly about for over a year; he recently appealed a decision denying him a request to exempt those initial warrants from his protective order.

To the extent that Assange and Schulte (if he is really the Vault 7 source) communicated – and there's good reason to believe WikiLeaks did communicate in advance of this publication – then Assange might be able to provide testimony

that would get beyond the classification problems.

## Testimony about the response to his pardon requests (including Roger Stone's role in it)

I also believe that DOJ continues to investigate the long effort – an effort that includes Roger Stone, whom prosecutors say is still under investigation – in brokering a pardon for Assange, possibly in part for Assange providing disinformation about where the Democratic documents came from. Consider that, as recently as November, Mueller was trying to learn whether Trump had discussed pardoning Assange before his inauguration, a question about which Trump was especially contemptuous, even given his overall contempt for responding to questions.

Then there's a subtle point I find really interesting. When the Mueller Report lays out all the times Don Jr magnified Russian trolls, it noted that the failson's fondness for Russian propaganda continued after the election.

96 See, e.g., @DonaldJTrumpJr 10/26/16 Tweet ("RT @TEN\_GOP: BREAKING Thousands of names changed on voter rolls in Indiana. Police investigating #VoterFraud. #DrainTheSwamp."); @DonaldJTrumpJr 11/2/16 Tweet ("RT @TEN\_GOP: BREAKING: #VoterFraud by counting tens of thousands of ineligible mail in Hillary votes being reported in Broward County, Florida."); @DonaldJTrumpJr 11/8/16 Tweet CRT @TEN\_GOP: This vet passed away last month before he could vote for Trump. Here he is in his #MAGA hat. #voted #ElectionDay."). **Trump Jr. retweeted additional @TEN\_GOP content subsequent**

to the election.

[snip]

103 @DonaldJTrumpJr 11/7/16 Tweet ("RT @Pamela jetoncl3. Detroit residents speak out against the failed policies of Obama, Hillary & democrats . . . . ")

[my emphasis]

The page-long section (page 60) that lays out Don Jr's innocuous pre-election interactions (which is how I described them when they were first published) does not, similarly, note the President's son's more damning interactions with WikiLeaks that took place after the election, where Assange once privately...

Hi Don. Hope you're doing well! In relation to Mr. Assange: Obama/Clinton placed pressure on Sweden, UK and Australia (his home country) to illicitly go after Mr. Assange. It would be real easy and helpful for your dad to suggest that Australia appoint Assange ambassador to DC "That's a really smart tough guy and the most famous Australian you have! " or something similar. They won't do it, but it will send the right signals to Australia, UK + Sweden to start following the law and stop bending it to ingratiate themselves with the Clintons. 12/16/16 12:38PM

And then publicly asked for an Ambassadorship that would amount to a pardon.



Julian Assange ♦  
@JulianAssange

Following

Dear @DonaldJTrumpJr our offer of being ambassador to the US still stands. I could open a hotel style embassy in DC with luxury immunity suites for whistleblowers. The public will get a turbo-charged flow of intel about the latest CIA plots to undermine democracy. DM me.

#vault8

4:33 PM - 14 Nov 2017

Given the thoroughness of the report, I find the silence about these exchanges to be notable.

Admittedly, one aspect of the pardon campaign implicates Assange far more than (at least given the public details) it does Trump: his seeming attempt at extortion using the CIA's hacking tools. But that doesn't mean the government wouldn't like his testimony about the larger effort, and I have reason to suspect that is something they were pursuing via other channels as well.

## WikiLeaks' ongoing interactions with Russia

Finally, I'm sure the US government would be willing to give Assange some consideration if he offered to describe his interactions with Russia over the years. The most public aspect of that was the WikiLeaks effort to get Snowden safely out of Hong Kong, which ended unexpectedly in Russia. But there are also credible allegations WikiLeaks engaged in some catch-and-kill of damning documents, most publicly with an incriminating document from the Syria Files. Emma Best looks more closely at that incident in a longer profile of a Russian hacker, Maksym Igor Popov, who seemed to shift loyalties back and forth from the US to Russia even while cultivating Anonymous.

Simultaneously, Sabu, who had been boasting about an alleged breach of Iranian systems, pivoted to the then-pending Syria files. "We owned central syrian bank and got all their emails," he told Popov. There were "a lot of scandals" in those emails. In the 2012 exchange, Popov is told about an alleged email revealing that Syria had secretly sent Russia billions of Euros. Sabu appears to confuse the amount, which was 2 billion, with an amount from a similar transfer involving an Austrian bank. Reporting by The Daily Dot implies that the two emails were often discussed in the same conversation, while also revealing that the email Sabu was describing to the alleged Russian contractor was omitted from WikiLeaks' eventual release.

WikiLeaks responded to the reporting by claiming that they "either never had the data or [that it was] in some strange MIME format so it isn't indexed," and that the reporting was an attack on WikiLeaks that was meant "to help HRC."

Popov was impressed by Sabu's description of the Syria emails, though he briefly confused them with another, unspecified cache that Sabu hinted Popov helped release. "If you want real access to the emails, I can [give it to you]," Sabu offered. Popov responded ecstatically, saying he could use it to create disinformation and fabricate conspiracies. Undaunted by Popov's intended use for the emails, Sabu said he'd "try to set it all up soon."

This exchange occurred several months after WikiLeaks received the first batch of the Syria files and several weeks after WikiLeaks gave the LulzSec hackers private access to a search engine to help parse the Stratfor emails which the

group had also provided to WikiLeaks.



If Popov acquired early access to the Syria files, it would have been the score of a lifetime, giving him an exclusive early inside look at corporations and governments. However, as any later logs of discussions between Popov and Sabu aren't part of the leaked file, it's unclear if Popov actually received early access to the Syria files.

Already by this time period in 2011, some former Anons were expressing concern that their operations were being facilitated by Russian infrastructure.

Some followers came to believe that the leaders sought only personal aggrandisement or were effectively in cahoots with the organised criminals who may have raided Sony's credit-card hoard after Anonymous knocked down the door. Even stalwarts such as Housh are unhappy that much of Anonymous's infrastructure is now housed on computers used by Russian criminals. "It's not like the Russians wanted us to get HBGary, but I want to know personally why they are doing this," he says of the chat hosts. "Where is the money coming from?"

To be sure: a tie with Anonymous is different than a tie directly with WikiLeaks, even if Anonymous was serving as one of WikiLeaks' important source streams at the time. Further, Best notes that there's no evidence in available files that Popov interacted directly with WikiLeaks – nor would there be, given the scope of the publicly available chat logs.

But, particularly given the allegations that Assange fed the Seth Rich hoax as part of an



effort to deny that he knew he had gotten the Democratic files from Russia, I'm sure the US government would love to know from him about any ties between WikiLeaks and Russia.

Offering Assange a plea deal might be one way to close the book on WikiLeaks without the political controversy of a trial.

The question, of course, is whether Assange would take one. Admittedly, it's highly unlikely.

Still, as noted, he repeatedly claimed he'd love to tell all if he could avoid prison altogether. But even in a best case scenario, he's looking at a long extradition fight from Belmarsh in conditions that are reportedly pretty shitty. A plea deal might be one way to limit how much more time in custody he faces.

Which could bode poorly for people like Chelsea Manning, making significant sacrifices to protect Assange.

*As I disclosed last July, I provided information to the FBI on issues related to the Mueller investigation, so I'm going to include disclosure statements on Mueller investigation posts from here on out. I will include the disclosure whether or not the stuff I shared with the FBI pertains to the subject of the post.*