

WHAT THE STONE SEARCH WARRANTS SUGGEST ABOUT THE ONGOING INVESTIGATION INTO HIM

In a filing opposing Roger Stone's effort to suppress the fruits of 18 searches against him, the government lays out some details about the investigation into Stone that – especially combined with reports of Andrew Miller's testimony yesterday – provide some idea of how the investigation into Stone evolved. Here's how the government describes the 18 search warrants against Stone.

Between August 2017 and February 2019, the government obtained eighteen search warrants for electronic facilities and properties related to Roger Stone. Doc. 109, Exs. 1-18. Many of these search warrants were issued in the District of Columbia by Chief Judge Beryl A. Howell. Doc. 109, Exs. 1-10, 16, 18. Three warrants were issued in the District by other district judges. See Ex. 11 (Judge Contreras); Ex. 12-13 (Judge Boasberg). Others were issued by magistrate judges in other districts. Exs. 14 (S.D.N.Y); Exs. 15, 17 (S.D. Fl.).

Fourteen of the affidavits ("the 1030 warrant affidavits") allege probable cause that the search will yield evidence of a violation of 18 U.S.C. § 1030, which makes it a crime to "intentionally access[] a computer without authorization or exceed[] authorized access and thereby obtain[]...information from any protected computer." 18 U.S.C. § 1030(a)(2)(C).

See Exs. 1- 13, 18. In brief, each of these affidavits (at a minimum) states that Stone communicated with the Twitter account Guccifer 2.0 about hacked materials Guccifer had posted. Each affidavit states that on June 15, 2016, Guccifer 2.0 publicly claimed responsibility for the hack of the computer systems of the Democratic National Committee ("DNC"). Each affidavit states that Organization 1 published materials stolen from the DNC in the hack. Each affidavit describes Stone's communications (including his own public statements about them) with Guccifer 2.0, Organization 1, and the head of Organization 1. Each affidavit submits that, based on those communications, there was probable cause to believe that evidence related to the DNC hack would be found in the specified location. Many of these affidavits contain additional evidence alleging probable cause to believe evidence will be found of violations of additional crimes, including 18 U.S.C. § 3 (accessory after the fact); 18 U.S.C. § 4 (misprision of a felony); 18 U.S.C. § 371 (conspiracy); 18 U.S.C. §§ 1505 and 1512 (obstruction of justice); 18 U.S.C. § 1513 (witness tampering); 18 U.S.C. § 1343 (wire fraud); 18 U.S.C. § 1349 (attempt and conspiracy to commit wire fraud), and 52 U.S.C. § 30121 (foreign contribution ban). See, e.g., Exs. 7-13 (all crimes). Stone raises no arguments regarding these other crimes.

In addition, four of the affidavits (the "false statement warrant affidavits"), issued close in time to Stone's indictment, allege probable cause that the search will yield evidence of false statements, obstruction of justice, and witness tampering. See Exs. 14-17. Those affidavits set forth evidence supporting the allegations in the indictment that

Stone made false statements in his September 2017 testimony before the House Permanent Select Committee on Intelligence ("HPSCI"), obstructed ongoing investigations, and tampered with a witness.

The warrants laid out may look something like this: **[Note: per this ABJ opinion, this is not correct; Stone's lawyers did not list the warrants in order.]**

1. Beryl Howell, August 2017, CFAA
2. Beryl Howell, CFAA
3. Beryl Howell, CFAA
4. Beryl Howell, CFAA
5. Beryl Howell, CFAA
6. Beryl Howell, CFAA
7. Beryl Howell, CFAA: include "all crimes" (18 U.S.C. § 3 (accessory after the fact); 18 U.S.C. § 4 (misprision of a felony); 18 U.S.C. § 371 (conspiracy); 18 U.S.C. §§ 1505 and 1512 (obstruction of justice); 18 U.S.C. § 1513 (witness tampering); 18 U.S.C. § 1343 (wire fraud); 18 U.S.C. § 1349 (attempt and conspiracy to commit wire fraud), and 52 U.S.C. § 30121 (foreign contribution ban)
8. Beryl Howell, CFAA: includes "all crimes"
9. Beryl Howell, CFAA: includes "all crimes"
10. Beryl Howell, CFAA: ¶¶ 35-40

discuss Stone's
communications with
WikiLeaks and Julian
Assange: includes "all
crimes"

11. Rudolph Contreras, CFAA: ¶
24 discusses private Twitter
message between Stone and
Guccifer 2.0: includes "all
crimes"
12. James Boasberg, CFAA:
includes "all crimes"
13. James Boasberg, CFAA:
includes "all crimes"
14. SDNY, January 2019, False
Statements
15. SDFL, January 2019, False
Statements
16. Beryl Howell, January 2019,
False Statements
17. SDFL, January 2019, False
Statements
18. Beryl Howell, February 2019,
CFAA and False Statements:
¶¶ 64-77 relate to Stone's
conversations with Randy
Credico

A May 14, 2019 Amy Berman Jackson minute order
demanding that Stone clean up the first
iteration of an exhibit list reveals that there
were some warrants obtained in August 2018,
which may be those from the other DC District
judges (and which may suggest they did not come
from Mueller's grand jury, or maybe that Howell
took a vacation in August last year).

The Court notes that defendant's Search
Warrant Exhibit, Dkt. 101 (sealed),
purports to be a list of the search

warrants attached to the motion, but the list lacks exhibit numbers, and the order of the items listed does not correspond to what was actually provided. For instance, the first item on the list indicates that one of the warrants included in the motion was a warrant for the search of defendant's former home issued by the U.S. District Court for the Southern District of Florida, but neither that warrant nor the application has been supplied to the Court. Also, the Search Warrant Exhibit lists warrants issued by the U.S. District Court for the District of Columbia on August 3, 2018 to three recipients, but only two warrants issued on that date were submitted to the Court (with one of them being filed twice). Finally, a search warrant issued by U.S. District Court for the District of Columbia on August 8, 2018 was filed with the Court but not listed on the Search Warrant Exhibit.

Even though Stone was listed among those Richard Burr told the White House Counsel's Office on March 16, 2017 that the FBI was investigating, the government did not obtain a search warrant on him until August 2017. Probably, the government started with searches of Stone's Twitter accounts.

If the warrants are listed in temporal order in Stone's exhibit (which seems likely given the timing), then it appears that for 13 months, the government pursued Stone for some involvement in the actual hack and leak, with various theories implicating him in the crime, including conspiracy, accessory after the fact, and misprison of a felony.

It appears that got the government to the point where they were trying to get Jerome Corsi to explain how he and Stone learned that WikiLeaks would release John Podesta's emails. Then he went all Jerome Corsi on the government, and

appears to have diverted the investigation, such that the government finalized the false statements, obstruction, and witness tampering indictment currently being prosecuted, but moved away from charging a CFAA-related crime.

It appears likely the government got warrants for his properties in NY and FL and some other facilities in advance of his arrest on January 25. The additional warrant in Florida may reflect a search of a phone or other devices obtained in the raid.

Then (again assuming Stone's cleaned up exhibit is temporal) there's a February 2019 warrant, again from Howell (so presumably Mueller's grand jury). The timing of this may coincide with the threat Stone issued against ABJ herself, possibly including a warrant to Instagram. And/or it could be a follow-up warrant based off something (such as previously unknown devices) discovered in the January 25 searches.

Yesterday, Andrew Miller finally testified after his year long attempt to avoid doing so. He reportedly testified about his relationship with Stone, Stone's movements and schedule at the 2016 RNC, and Miller's relationship since then. Given that prosecutors may have returned to their pursuit of a CFAA related case against Stone in February, there may be something about the RNC that they've been trying to pin down.

The Mueller Report seems to have a section, starting at Volume I page 176, explaining why distributing stolen emails isn't a crime, which is consistent with what Barr has said publicly. It clearly has a section, starting at Volume I page 188, explaining why having stolen emails released for you is not an illegal campaign gift. The latter section clearly includes significant discussion of Stone. But given what this description of warrants shows, the first section might, as well.

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.