

HOW TO READ THE MUELLER REPORT REFERRALS

A filing in the BuzzFeed/EPIC FOIA lawsuits to liberate an unredacted copy of the Mueller Report provides new insight on how to read the referral section at the back of the report. (Here's BuzzFeed's own report on the filing.) The filing provides a more specific breakdown of the exemptions used to withhold parts of the report, especially the b7 redactions.

As it explains, it uses four categories of b7C, which protects, "information 'compiled for law enforcement purposes' when disclosure 'could reasonably be expected to constitute an unwarranted invasion of personal privacy.'" These distinguish between four kinds of people: those unwittingly involved, those who were considered for charges but ultimately not charged, those "concerning a subject of the investigation," and those whose non-criminal activity got described in the report.

- (b)(6)/(7)(C)-1: names, social media account information, and other contact information of unwitting third parties;
- (b)(6)/(7)(C)-2: names and personally-identifiable information about individuals not charged by the SCO;
- (b)(6)/(7)(C)-3: information concerning a subject of the investigation by the SCO; and
- (b)(6)/(7)(C)-4: names, social media account

information, contact information, and other personally-identifiable information of individuals merely mentioned in the Report

The description of the third category claims that all the b7C-3 redactions hide information about Roger Stone or "also ... other individuals discussed in connection with the facts related to Mr. Stone's criminal case."

72. The third category of privacy-based withholdings protects information pertaining to an individual who was a subject of the investigation by the SCO, and is coded as "(b)(6)/(7)(C)- 3." Within this category, OIP has protected non-public information pertaining to Roger Stone and/or his pending criminal case in the United States District Court for the District of Columbia. The redactions in this category include information pertaining to Mr. Stone, but also to other individuals discussed in connection with the facts related to Mr. Stone's criminal case. 17 The information related to the investigative subject or subjects that has been protected in this category would, if released, clearly invade the individual's or individuals' personal privacy and in particular, Mr. Stone's ability to receive a fair trial and to respond to the charges against him in court without compounding the pre-trial publicity that his case has already received.

73. As noted above, in order to withhold information pursuant to Exemptions 6 and 7(C), a balancing of the privacy interests of the individuals mentioned in the Report against any FOIA public interest in disclosure must weigh in

favor of non-disclosure. Given the intense public interest surrounding the SCO's work as well as the public and media attention surrounding this individual's ongoing court case, and the significant attention that any new fact made public will receive, disclosure of any additional non-public information about the individual or individuals protected in this category would certainly subject them to unwarranted harassment, stigma, further reputational or even physical harm. Individuals have protectable privacy interests in premature release of investigatory details relevant to criminal law enforcement proceedings against them, beyond what is made public in connection with their criminal justice proceedings. That interest is magnified here, where Mr. Stone's trial is imminent, and any further public disclosure of details regarding the case against him will impact his ability to amount an effective defense and deprive him of the right to a fair trial.

This would obviously include information on Jerome Corsi and Randy Credico, at least the latter of whom will be a witness at Stone's trial. But it almost certainly includes WikiLeaks, because the redaction started on page 176 of Volume I describes why publishing stolen information was not prosecuted.

Then there's category b7C-4, which hides the sensitive information about people who had a role in the operation (including as victims), but were not subjects of *Mueller's investigation*. So among other things, this redaction is used to hide the identities of people who were referred for criminal prosecution for things unrelated to the Mueller investigation (like, say, George Nader's child porn). It covers,

names and related personally-identifiable information of individuals for whom evidence of potential criminal activity was referred by the Special Counsel to appropriate law enforcement authorities. With respect to the latter group of individuals, who are mentioned in Section B (“Referrals”) of Appendix D to the Report, these individuals were not subjects of the SCO investigation. Rather, they are included in an appendix to the Report only because evidence of potential criminal activity periodically surfaced during the course of the SCO’s investigation.¹⁹

But as this footnote describes, two of the people in the referrals are “individual or individuals” labeled with the designation limited to Stone’s case. Another appears to be someone whom Mueller decided not to charge for Russian related activities, but whom Mueller referred for something else.

¹⁹ Two entries in Section B of Appendix D relate to an individual or individuals whose privacy information has been categorized and coded as (b)(6)/(7)(C)-3, discussed supra in ¶¶ 72-75. Another entry in Section B of Appendix D relates to an individual against whom the SCO contemplated, but did not pursue, charges related to the Special Counsel’s investigation. Although information about this individual is considered a “mere mention” in the context of Appendix D, this individual’s privacy information has separately been categorized and coded as (b)(6)/(7)(C)-2, elsewhere in the Report.

In other words, people or subjects referred to in the referrals section appear to be:

- b7A: People or subjects

(these can be criminal or national security investigations) not mentioned in the report (in the transfers section, this is likely used to hide the names of people like Tony Podesta and Vin Weber who are tied to Manafort's Ukrainian graft)

- b7C-3: People who have some tie to the Stone case referred on their own right
- b7C-4: People who appear in some non-criminal fashion in the Mueller Report, but who got referred for unrelated possible crimes (again, George Nader might be included in this category)

Here's the updated FOIA version.

This redaction could be of Jerome Corsi for his false statements (though that would mean someone who fit between Cohen and Corsi in the alphabet would be included).

4. (b) (6), (b) (7)(A), (b) (7)(B), (b) (7)(C) (b)(6)/(b)(7)(C)-3
(b) (6), (b) (7)(A), (b) (7)(B), (b) (7)(C) (b)(6) / (b)(7) (C)-3

I've suspected that this redaction pertains to WikiLeaks (this part of the report is in alphabetical order and this is the last entry).

14. (b) (6), (b) (7)(A), (b) (7)(B), (b) (7)(C) (b)(6)/(b)(7)(C)-3
(b) (6), (b) (7)(A), (b) (7)(B), (b) (7)(C) (b)(6) / (b)(7)(C)-3

If all that's right, it would mean the referrals include:

- Michael Cohen
- Greg Craig and related
- 4 and 14: Two people associated with Stone (possibly Corsi and WikiLeaks)
- 1, 3, 6-9, 11-12: Eight people who play a non-criminal role in the Mueller Report, but were referred for some other crime
- 10, 13: People or subjects not mentioned in the report, but referred for prosecution for some other crime or national security investigation

And one of those category b7C-4 people was considered, but not charged, in the Russia investigation but was referred for investigation for something else.

Update: Fixed the referrals for people who play a non-criminal role in the Mueller Report but were referred for some other potential crime.
H/t EB.

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.