

DAYS AFTER AMERICA LEARNS TO HATE FISA, LEV PARNAS' CO- CONSPIRATOR FOCUSES THE ISSUE

During the first status hearing for Lev Parnas and his co-conspirators, the government stated clearly that no Title III wiretaps had been used in the case. I recognized at the time that didn't necessarily mean they weren't wiretapped. As people engaged in transnational political influence peddling, they were prime candidates to have been collected under FISA, either targeted at them or (under 702) their co-conspirators overseas.

I'm not the only one who noticed that. The lawyers for Andrey Kukushkin – who was indicted on the Nevada marijuana part of the grift, one that explicitly described funding from an unidentified Russian – have asked Judge Paul Oetken to make the government tell them whether their client or any of his co-conspirators (including unindicted co-conspirators) were the subject of any of various forms of surveillance, including 12333 and FISA. The government responded with the kind of non-denial that suggests it is quite likely one or some of these grifters (or their Russian unindicted co-conspirator) were collected under those authorities.

As we have previously told you, the Government did not obtain or use Title III intercepts in the course of this investigation. Additionally, the Government does not intend to use any information that was obtained or derived from the Foreign Intelligence Surveillance Act or the other forms of surveillance identified in your letter.

Remember: The government doesn't have to tell defendants who were targeted under FISA that they were so long as the government doesn't rely on any evidence obtained under FISA in their prosecution. But Kukushkin seems to have a pretty clear suspicion that the government knows what he has said in his communications.

The government has said (including in a motion asking the court to revoke Parnas' bail last night) that there are likely going to be follow-on charges. And Foreign Agent charges are the kind of thing you might expect given the way the grifters were funneling foreign money into politics. Which would mean they're precisely the kind of people that FISA was envisioned for.

That said, Lev Parnas and Igor Fruman were in close contact with the President's lawyer, and Parnas also spoke at key times to Devin Nunes (who consistently only cares about surveillance implicating him), John Solomon, and other people squealing when Adam Schiff revealed *just* their metadata.

So if FISA were used, a bunch of people who've just learned to hate FISA may have been incidentally collected in conversations with indicted fraudsters.

The thing is, Bill Barr has repeatedly said that he was briefed on this case and fully approved of it. Which means Barr may soon be in the position of defending a controversial FISA, one possibly approved under him or another Trump Attorney General.