

UNSEALED MUELLER REPORT PASSAGES CONFIRM THE THEN- ONGOING INVESTIGATION INTO ROGER STONE

BuzzFeed released the last bits of the Mueller Report that Judge Reggie Walton ordered released late last night. I will have far more to say about them between meetings later today.

But for now, I want to point to the key paragraph on why Mueller didn't charge Roger Stone in the hack-and-leak case. Basically, it says that neither Corsi's testimony nor "other evidence currently available to the Office" is sufficient to prove that when Stone was coordinating the Podesta file dump, he knew that Russians continued to hack Democratic targets.

But then it includes a footnote that says there are "ongoing investigations" (plural) that the DC US Attorney's Office will continue to pursue to try to address these factual uncertainties.

The Office determined that it could not pursue a Section 1030 conspiracy charge against Stone for some of the same legal reasons. The most fundamental hurdles, though, are factual ones.¹²⁷⁹ As explained in Volume I, Section III.D.1, *supra*, Corsi's accounts of his interactions with Stone on October 7, 2016 are not fully consistent or corroborated. Even if they were, neither Corsi's testimony nor other evidence currently available to the Office is sufficient to prove beyond a reasonable doubt that Stone knew or believed that the computer intrusions were ongoing at the time he ostensibly encouraged or coordinated the publication of the

Podesta emails. Stone's actions would thus be consistent with (among other things) a belief that he was aiding in the dissemination of the fruits of an already completed hacking operation perpetrated by a third party, which would be a level of knowledge insufficient to establish conspiracy liability. See *State v. Phillips*, 82 S.E.2d 762, 766 (N.C. 1954) ("In the very nature of things, persons cannot retroactively conspire to commit a previously consummated crime.") (quoted in *Model Penal Code and Commentaries* § 5.03, at 442 (1985)).

1279 Some of the factual uncertainties are the subject of ongoing investigations that have been referred by this Office to the D.C. U.S. Attorney's Office.

As I described in May, in fall 2018, Mueller's team took a bunch of investigative steps that they kept under seal. Then, they used the witness tampering case to obtain more information.

It's unclear how much closer prosecutors got to proving the hack-and-leak case (though they obviously obtained Andrew Miller's testimony, which was evidence not "currently available" when the Mueller Report was written). But there also appears to be evidence that, by intervening in the Stone sentencing, leading all the prosecutors to drop off the case, Bill Barr killed that part of the investigation.

Prosecutors were still working on proving Stone's role in the hack-and-leak in March 2019. What's unclear is how much closer they had gotten to charging it before Barr intervened.