

WHEN SECRET SERVERS BUMP UP AGAINST PROSECUTORIAL INDEPENDENCE AND FOLLOWING THE EVIDENCE

CNN has a story reporting that President-Elect Biden will be granted access to the secret server where Trump has stashed the transcripts of his sensitive discussions with world leaders. It frames the story around the question of whether or not Biden will release those records, reporting that he probably will respect their sensitivity.

A person close to the Biden transition team told CNN that no decisions have been made about how these sensitive materials will be handled when the President-elect takes office on January 20, and that it's likely they will maintain the Trump administration's close hold on such information, at least at first, until they are settled in and Jake Sullivan, Biden's pick for national security adviser, can assess their information security needs.

A senior US official said that the Biden team will be given access to a secret server containing sensitive information related to President Donald Trump's more controversial conversations with foreign leaders on a need-to-know basis and the Trump administration is prepared to share any information that they deem to be relevant to their future decision-making process.

The story seems to be sourced to one Biden transition official, serving as a source for

what the Biden administration will do, and a Trump official, serving as a source for how Trump White House will deal with this information during the Transition. In context, describing what to do about known conversations that got buried on Trump's secret server, this comment is from the latter.

There are fast moving issues where policies or military technologies have changed in the four years since Biden's political team left government, in particular, in relation to China and Turkey, something the current US official said will be a priority in discussions with the Biden landing teams.

The official said that basic details pertaining to Trump's conversations with foreign leaders like Russian President Vladimir Putin and Saudi Arabia's Crown Prince Mohammed Bin Salman, will only be shared if they are relevant to a pending policy or national security matter.

"There's a lot to cover," the senior US official said. "We are going to share anything that's relevant for them to come to grips with reality when the keys are theirs. If there was something like that that's actually of note... things on the covert side, for example, we will highlight them very quickly."

That is, Biden will get news of Trump's current plans involving Turkey and China, but will not get the details of what Trump promised away to Putin or whether he shared information on Jamal Khashoggi with MbS.

This particular frame comes from the sources, and while useful to know, doesn't answer the question for the Biden administration. After all, Biden has answered questions about whether he would prosecute Trump or those close to him appropriately, by saying he plans to pick a good

Attorney General and stay the fuck out of DOJ investigations. That means he might face difficult questions about what to do with these transcripts if a Congressional committee (they've already demanded the Putin transcripts) or prosecutors asked for known and/or relevant transcripts.

Just as an example, when the whistleblower revealed that President Trump had extorted the President of Ukraine to provide him election help, any normally functioning DOJ would have immediately identified the related case involving Rudy Giuliani's associates Igor Fruman and Lev Parnas. That would have given SDNY jurisdiction over the fate of Trump's extortionist call.

As of now, though, the Fruman and Parnas case remains ongoing (it will present one of the more difficult pardon decisions for Trump), and SDNY got David Correia to plead just before the election, while obscuring whether he will cooperate with prosecutors. If the case is not in some way entirely killed, then Trump's call transcript, along with a lot of other evidence from the White House would become material to that prosecution. If Biden truly were taking a hands-off approach to prosecutions of Trump, he would not make the decision of whether to turn over this transcript (other stuff would not be covered by privilege and presumably would be handed over, including from State).

These will be the truly difficult decisions, not whether Biden gets notice now or in three months of what promises Trump made to Putin.