

DID JOHN DURHAM SEIZE JOURNALISTS' CALL RECORDS?

The WaPo has revealed that DOJ obtained toll records on three journalists, covering a 3.5 month period in 2017, in 2020.

The Trump Justice Department secretly obtained Washington Post journalists' phone records and tried to obtain their email records over reporting they did in the early months of the Trump administration on Russia's role in the 2016 election, according to government letters and officials.

In three separate letters dated May 3 and addressed to Post reporters Ellen Nakashima and Greg Miller, and former Post reporter Adam Entous, the Justice Department wrote they were "hereby notified that pursuant to legal process the United States Department of Justice received toll records associated with the following telephone numbers for the period from April 15, 2017 to July 31, 2017." The letters listed work, home or cellphone numbers covering that three-and-a-half-month period.

[snip]

The letters do not say when Justice Department leadership approved the decision to seek the reporters' records, but a department spokesman said it happened in 2020, during the Trump administration. William P. Barr, who served as Trump's attorney general for nearly all of that year, before departing Dec. 23, declined to comment.

The WaPo cites two stories it think might be culprits:

- Obama's secret struggle to punish Russia for Putin's election assault
- Sessions discussed Trump campaign-related matters with Russian ambassador, U.S. intelligence intercepts show

But it misses a key story on which Ellen Nakashima – whose mobile phone and home numbers were seized – was the first byline.

- Russian ambassador told Moscow that Kushner wanted secret communications channel with Kremlin

There's also one on which Nakashima was not the first byline that might be relevant.

- Comey prepared extensively for his conversations with Trump

Notably, the request goes through the time when Peter Strzok was on the Mueller team.

In August 2020, NYT reported that John Durham was investigating media leaks. As reported, that was focused on the original leak to David Ignatius that led Mike Flynn to respond. But it reported that it wasn't clear whether the investigation included other leaks, such as the two stories based on leak intercepts from the period under subpoena.

This report looks like what you'd expect if Durham's investigation was broader than that, covering the period through when Strzok was removed from Mueller's team.

Update: Billy Barr told the AP that he had made Durham Special Counsel on December 1, just over 6 months before WaPo got notice that DOJ had

seized their records. He did so, it's now clear, so that whatever providers they were trying to obtain records for would know that he had the authority of Attorney General.

Update: What Durham is clearly pursuing is charging someone under 18 USC 793 for leaking signals intercepts that seeded three stories:

- The David Ignatius story revealing Mike Flynn's calls with Sergei Kislyak had been discovered
- The WaPo story revealing that Jared Kushner's effort to set up a back channel with Russia had been discovered
- The WaPo story revealing that Jeff Sessions had lied when he said he hadn't spoken to any Russians in his confirmation hearing

Update: To be quite clear: I have no reason to believe Durham has any evidence about Strzok. What I have is a bunch of evidence that 1) Durham doesn't understand what he's looking at and 2) he was hired to take out a couple of FBI people, starting with Strzok.