

# FOUR YEARS AND 345 DAYS

As originally scheduled, Magistrate Judge Michael Harvey would have held a detention hearing today for Brian Cole, the guy accused of planting pipe bombs on January 5, 2021.

We might have learned more about evidence and motive at such a hearing, but now we'll have to wait until December 30, if at all.

Last Wednesday, the AUSA in the case, submitted a filing basically saying, "Regarding your question about whether we still need a detention hearing on December 15, I respond that the defense wants another two weeks to review discovery before such a hearing, and we'd like an exclusion of time under Speedy Trial Act."

The United States respectfully moves the Court to exclude time under the Speedy Trial Act from the date of defendant Brian J. Cole, Jr.'s arrest on December 4, 2025, through the date of the detention hearing, which the defense has requested to continue. 1

In response to the Court's inquiry, the government conferred with defense counsel. Defense counsel has requested that the government represent the following to the Court in this motion: The defense requests that the Court continue the detention hearing in this case currently set for December 15, 2025, to allow the defense additional time to review the significant amount of discovery provided by the government to date. The defense consents to the exclusion of time under the Speedy Trial Act from December 4, 2025, through the date of the rescheduled detention hearing.

The government does not oppose a defense continuance of the detention hearing.

The parties jointly request that the detention hearing be reset for December 30, 2025.

1 For administrative efficiency, the government is submitting a single motion reflecting the relief sought by both parties.

Before I unpack what this means – and what we can or cannot assume from this – let me point to this WSJ story that explains why it took so long to find Cole: Basically, an FBI Agent wrote code to be able to read cell tower dumps T-Mobile provided, which the government had claimed – for years! – was corrupted.

For four years, a tranche of cellphone data provided to the FBI by T-Mobile US sat on a digital shelf because investigators couldn't figure out how to read it, people familiar with the matter said. The data turned out to be essential to cracking the case, the people said, a breakthrough that happened only recently when a tech-savvy law-enforcement officer wrote a new computer program that finally deciphered the information. That move led to the arrest of 30-year-old Brian Cole Jr. at his home in Northern Virginia, where he had been quietly living with his mother and other relatives.

[snip]

Increasingly desperate and under pressure to make progress, supervisors urged agents and analysts to take a new look at what they had, including the data from T-Mobile—reflecting phone locations based on internet usage—that investigators had set aside years earlier.

Once investigators were finally able to read the data, they said it led them to Cole's phone number because his

cellphone's movements tracked what investigators had seen in surveillance footage.

I have no doubt that the government believed they couldn't access some or most of the T-Mobile data; it is a problem that has shown up in court filings for years. How well-founded that belief was is something we may learn in the months ahead.

WSJ also describes why we're getting – and why we should expect to continue getting – so much leaking from this investigation: Because Kash Patel is claiming credit and accusing the FBI of sandbagging before now.

In a four-hour interview with investigators, Cole acknowledged placing the bombs, people familiar with the probe said. He expressed support for Trump and said he had embraced conspiracy theories regarding Trump's 2020 election loss, the people said. He had thrown out the Air Max sneakers, he said. Cole hasn't entered a plea, and his lawyer didn't respond to requests for comment.

Inside the Justice Department, agents and prosecutors have privately expressed widespread relief that an arrest has finally been made, but also resentment over FBI Director Kash Patel, who has suggested that they didn't work doggedly on the probe until Trump administration leadership arrived.

The assertion that Cole is a Trump supporter, which was always the most likely explanation for his actions, adds to the likelihood of leaks. All the people crowing about the Cole arrest – Pam Bondi, Kash, and Dan Bongino – could well get fired if they find proof of another Trump supporting terrorist. So they're no doubt trying to minimize the chances that becomes public via

official channels.

The fact that the FBI had to write code simply to read the T-Mobile data may explain something that I allude to here: The language the complaint uses to refer to location data is not described in the normal way, usually expressed as a percentage likelihood that a device was within a certain range at the time in question.

The seven transactions between the COLE CELLPHONE and Provider's towers occurred at approximately 7:39 p.m., 7:44 p.m., 7:59 p.m., 8:14 p.m., 8:23 p.m., and 8:24 p.m. Two transactions took place at 7:39 p.m. During this time period, the COLE CELLPHONE had transactions with five different sectors on Provider's cell towers.

a. At approximately 7:39:27 p.m., the COLE CELLPHONE interacted with a particular sector of Provider tower 59323, which faces southeast (approximately 120°) from its location at 103 G Street, Southwest in Washington, D.C. ("Sector A"). Also at 7:39:27 p.m., the COLE CELLPHONE interacted with a particular sector of Provider tower 126187, which faces east (approximately 90°) from its location at 200 Independence Avenue, Southwest in Washington, D.C. ("Sector B"). Video surveillance footage shows that at approximately 7:39:32 p.m., the individual who placed the pipe bombs walked westbound on D Street, Southeast and then turned southbound on South Capitol Street, Southeast. These locations are consistent with the coverage areas of Sector A and B.

b. At approximately 7:44:36 p.m., the COLE CELLPHONE interacted with Sector B of Provider tower 126187. Video surveillance footage shows that at approximately 7:44:36 p.m., the individual who placed the pipe bombs

walked east on Ivy Street, Southeast.  
This location is consistent with the  
coverage area of Sector B.

Here, the complaint claims only that the cell tower data is *consistent* with Cole's presence in a certain cardinal directions from the cell towers; it doesn't even explain how far that cell site is.

Even without the hack of the data needed to read the T-Mobile data, this case might have been vulnerable on Fourth Amendment grounds. While the geofences for the Capitol itself have been sustained in a series of court orders, these tower dumps did not (as the Capitol-focused geofences did) collect data of people who were by definition culprits or victims. But if the T-Mobile data showing Cole's location comes from some untested code, it would be far more vulnerable to challenge, with the likelihood of dueling experts about whether the software hack faithfully rendered the location data.

Sure, there's the confession, but any good defense attorney will attempt to challenge any Miranda waiver, particularly in the case (as here) where a suspect is reportedly on the spectrum or is otherwise vulnerable to pressure.

Meanwhile, consider the implications of DOJ finding a way to read T-Mobile data that had been unavailable for years. What else might that data reveal? Might that data reveal a meeting between Cole and someone else on Capitol Hill on December 14?

Approximately three weeks before the pipe bombs were placed, on or about December 14, 2020, COLE made a purchase at a restaurant located near First and D Streets, Southeast. The restaurant is located across the street from the entrance to Rumsey Court on D Street, Southeast.

I think it inconceivable that Cole placed those

bombs at the perfect location set to explode at the perfect time for an attack the following day without consultation with others. Which means any investigation into Cole could break open (or reopen) an investigation into the far more coordinated attack that was evident in movement that day but – for whatever reason – not charged.

Imagine the possibility that the FBI could find proof – and a witness – to explain how January 6 was an exceedingly well-coordinated terrorist attack? That would be sure to get Bondi, Kash, and Bongino fired!

As noted, DOJ asked for and got an exclusion of the 15-day delay in detention hearing time from the Speedy Trial Act (STA). That's actually a very big deal, because when DOJ arrested Cole on December 5, the month they had to indict Cole under the STA coincided with the month that existed before the normal 5-year statute of limitations on most crimes expired.

The charges against Cole, 18 USC 844(d) & (i), actually have an extended (at least ten year) statute of limitations, as would some other charges, but some other possible charges (or conspiracy charges) might not.

So several things are likely going on:

First, while I think it likely FBI got their guy, if Cole's confession is at all vulnerable to challenge, the case might be exceedingly weak, not least because the data has been manipulated.

Meanwhile, DOJ really is in crunch time regarding both the charges and any further investigation. That likely suits Trump's appointees, who could be fired if the arrest of Cole provides cause to investigate further.

And that's all on top of any colorable claim that Cole is entitled to the pardons Trump has already given his mob (not least if he had contact with someone else who has already been pardoned).

That's the kind of mix that gives DOJ strong incentive to push for a plea, using as leverage the possibility of further charges, on top of an already draconian possible 40-year sentence.

Everyone else may be focused on holidays. But the people involved in this prosecution are likely involved in a very delicate game of chicken, as the ticking clock of dual deadlines threatens to explode.