

THE LIKELY CONTENT OF A TRUMP SEARCH AFFIDAVIT

Even Trump supporters are beginning to call on him to release the warrant used to search Mar-a-Lago Monday. In spite of serving as a source for multiple outlets yesterday, the lawyer who received the warrant, Christina Bobb, has refused to turn it over.

She's probably refusing for several reasons. First, it's likely that 18 USC 793 is among the suspected crimes cited on the warrant. If Trump admitted he's under investigation for part of the Espionage Act, his supporters might be less likely to prepare for civil war, as they currently are doing. Plus, given the inconsistent numbers of boxes seized in Bobb-sourced stories (the WSJ reported at least 10 boxes were seized, Politico and WaPo reported that 12 were), it suggests the search warrant return is far more detailed than just listing boxes of stolen documents, but instead lists individual documents.

If the return looked something like, [and to be clear, *this is strictly hypothetical*, and my "yaddayadda" is a fake compartment name] ...

1. Single existing copy of transcript of phone call between President Donald Trump and Ukrainian President Volodymyr Zelenskyy, July 25, 2019, TS/SCI/SAR-YADDDAYADDA/NF
2. Single existing copy of hand-written notes of meeting between President Donald Trump and Russian President Vladimir Putin,

July 16, 2018, TS/SCI/SAR-YADDAYADDA/NF

3. Transcript of NSA intercept of Saudi intelligence official in advance of Turkey operation involving Jamal Khashoggi, September 29, 2018, TS/SCI/SAR-YADDAYADDA/NF
4. NSA targeting list for Russia, dated January 15, 2021, TS/SCI/SAR-YADDAYADDA/NF (see this post)

...Then the gravity of Trump's crime would become immediately apparent.

Plus, Bobb didn't receive the most interesting part of it, the affidavit the FBI used to obtain the search warrant.

So I wanted to write up what an affidavit would likely include, based on the public understanding of the investigation.

For comparison, here are the warrants for Reality Winner and Josh Schulte, both of which were also, at least in part, warrants for a 793 investigation. Here are warrants to search Roger Stone and Oath Keeper Jeremy Brown's houses, both Federal searches in Florida related to investigations conducted in DC (the search of Brown's house even found allegedly classified documents, albeit only at the Secret level). Here's the warrant Robert Mueller's team used to get Michael Cohen's Trump Organization emails from Microsoft.

Cover Page

The cover page would include the address to be searched, 1100 S. Ocean Blvd, Palm Beach, FL. It would name the magistrate docket for the

warrant, 9:22-mj-08332, references to Attachment A describing the premises to be searched, and Attachment B, the description of things to search for, as well as the Affidavit.

It would have checkboxes checked, listing that the search was for evidence of a crime and to retrieve contraband.

It would list the crimes under investigation – according to public reports, probably 40 USC 2201-2209, 18 USC 2071, and 18 USC 793.

It would be dated and signed by Magistrate Judge Bruce Reinhart.

Attachment A

Attachment A would include a description of Mar-a-Lago, probably with a nifty picture of the garish resort, possibly also pictures of the basement storage area that investigators saw in their June visit. It would likely mention Trump's hotel safe in the bridal suite.

Attachment B

Attachment B would authorize seizure of all documents relating to violations of the statutes in question, so probably 40 USC 2201 and 18 USC 793, with bullet points stemming from what is covered under the PRA and what is covered – defense information – under the Espionage Act.

No computer files were described to have been seized, so it would consist entirely of paper seizures.

Affidavit

This would include:

- Several paragraphs describing the affiant's background and training
- An assertion that the

affiant believed there was probable cause for the subject offenses

- The statutory language, basically a cut-and-paste describing the elements of the offense
- Language about classification, including the various levels of classification
- Language about Presidential Records
- Language about 32 CFR sections 2001 and 2003, which cover the storage of classified information

Then there'd be a probable cause section that would include:

- A description of who is under investigation (whether it's just Trump, or whether his staffers are as well)
- A reference to the Archive's February 2022 request that DOJ investigate Trump's document theft
- Background on the year-long effort leading up to the Archives' request to get Trump to return stolen documents, including the specific records the Archives identified that Trump had withheld (CNN has a timeline here)

- Other evidence of Trump's refusal to abide by Presidential Records Act
- Other evidence of Trump's failures to protect classified information (particularly if FBI knows of any instances from after he left the presidency)
- The outcome of the investigation into Mike Ellis' efforts to retain highly sensitive NSA documents at the White House as staffers were packing boxes
- The Archives' three statements on the effort to obtain the documents
- A description of what aides told the FBI in interviews about the stolen documents in April and May
- Testimony about efforts to keep uncleared staffers from accessing boxes that included classified information
- A description of the May subpoena to the Archives for the classified documents stolen
- A summary of the classified documents found in the 15 boxes turned over last year, possibly with examples of the most sensitive documents

- Some explanation of why DOJ believes that these documents weren't actually declassified by Trump before he stole them
- A description of the June 3 meeting at Mar-a-Lago, which show three really key parts of the probable cause:
 - Acknowledgement from Trump lawyers that he remained in possession of stolen documents
 - A description of things the lawyers said that proved Trump was treating these as classified documents
 - A description of the storage location in the basement, including why it did not meet the standards for storage of classified documents
 - Possibly a description of documents seen on that visit that would qualify as potentially classified

Presidential Records

- A description of the letter asking Trump to better secure the documents
- A description of the subpoena for surveillance footage from Mar-a-Lago,

including anything
suspicious on it

- A list of known Presidential Records that had not yet been shared with the Archives

The affidavit would explain why the items being searched for are necessary to investigate the crime, which would explain:

- FBI needed to obtain the documents to see if they were Presidential Records not otherwise shared with the Archives
- FBI needed to obtain the documents to see if they were defense information
- DOJ needed to secure the documents because they are all the property of the Archives

Finally, the affidavit would include a conclusion stating that all this amounts to probable cause that Trump was in possession of documents that were covered by the PRA, some subset of which were believed to be classified.