

THE FRENCH PRESIDENT MAY BE CONTAINED INSIDE THE ROGER STONE CLEMENCY



These are pictures the FBI took during their March 2017 search of Josh Schulte's apartment for evidence that he violated 18 USC 793, one of the same crimes for which Trump is being investigated. (I've not included links and included just fragments of the images to minimize privacy impact.)

I thought they'd be useful background to the search of Trump's golf resort and the receipts included on the publicly released warrant. As I understand it, the FBI takes these pictures for several reasons:

- To document the condition of a search location before they start their search in case of an attempt to suppress the seizure
- To record the original location and condition of each item that will be seized
- To assist the inventory process

In Schulte's case, the FBI put a post-it bearing

a letter A-G in the framing picture they took of every room in his apartment (I've shown B, the closet, and D, his living room), then used additional post-its to identify the items they would seize from those rooms. The pictures make it easy to show (for example) that the FBI took item B1, probably a server, from the closet where it had been stored next to the Kingsford Charcoal bag and under the vacuum cleaner.

FBI's use of this kind of process is one of the reasons that I think the grant of executive clemency for Roger Stone described in the inventory of the search of Mar-a-Lago is probably neither the commutation nor the pardon that we already know about: Stone's get out of jail free card for lying to cover-up whatever real back-channel he had to Russia's hack-and-leak effort.

It appears to show that the "Info re: President of France" was contained inside the "Executive Grant of Clemency re: Roger Jason Stone Jr."

While we can't be sure, it appears that the FBI used a similar labeling system as used in the search of Schulte to identify all the boxes they found when they arrived at Mar-a-Lago, A-1 through at least A-73, then went through, room by room, to determine whether those boxes were covered by the scope of the warrant. Ultimately, the FBI seized 27 boxes out of what appears to be at least 73 they inspected.

The warrant permitted the FBI to seize anything that was obviously evidence of two of the three crimes under investigation:

- Presidential or Governmental Records created during Trump's term, which because they weren't turned over under the Presidential or Federal Records Act, might be evidence that someone removed records from a

public office and therefore a potential violation of 18 USC 2071

- Any evidence of the knowing alteration, destruction, or concealment of Government and/or Presidential Records, or of any documents with classification markings, which in addition to being a potential violation of 18 USC 2071, might also be evidence that Trump obstructed the Archives' efforts to fulfill its duties under 18 USC 1519

The way in which the warrant authorized the collection of evidence for the third crime, 18 USC 793, was two-fold. First, the FBI could collect any document *about* the storage of classified information. Responsive records might include a post-it note saying, "Sekrit, Keep Out," the email from Jay Bratt telling Trump's lawyers his storage facilities didn't comply with regulations setting standards for storing classified documents, or cover sheets for classified documents that were discarded (the FBI found some of those in Schulte's shredder and used those as evidence at trial to prove he knew he had CIA documents). The FBI would use such things to show that Trump or his staff knew how they were supposed to keep classified documents.

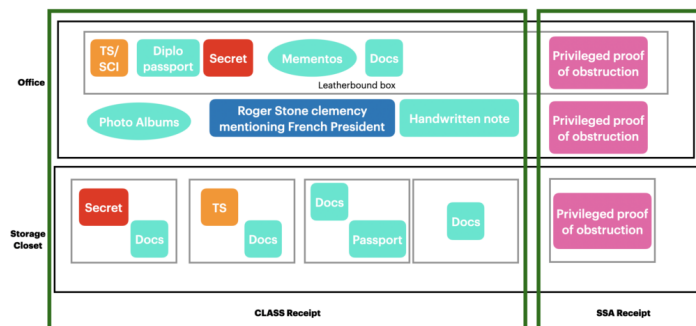
In addition, the FBI was allowed to seize documents with classification markings, stuff in the same box as such documents, and stuff in the same storage location as such boxes.

Any physical documents with classification markings, along with any containers/boxes (including any other

contents) in which such documents are located, as well as any other containers/boxes that are collectively stored or found together with the aforementioned documents and containers/boxes;

As I showed in my nifty graphic the other day, that might explain how the FBI seized three of Trump's passports. If they were in a box with classified documents – here shown by Trump's diplomatic passport in the leatherbound box where he allegedly also had TS/SCI documents – or in a box in the same closet as boxes that stored classified documents – shown here as a box with no classified documents but stored in the same closet where he had boxes with Top Secret and Secret documents – then FBI would be permitted to seize them, but would (and did) return them once they confirmed they were out of scope.

Trump Search



This proximal search protocol may be part of the reason why the FBI seems to have used sub-entries to describe the contents of 11 boxes.

Items 1 through 7 or 8 may have come from either Trump's office or residence (wherever he stored the leatherbound box that, according to a Guardian story, only his family knew about).

1 - Executive Grant of Clemency re: Roger Jason Stone, Jr.
1A - Info re: President of France
2 - Leatherbound box of documents
2A - Various classified/TS/SCI documents
3 - Potential Presidential Record
5 - Binder of photos
6 - Binder of photos
7 - Handwritten note
8 - Box labeled A-1

If so, under the proximal protocol, all could be seized if they were stored in the same place as Item 2, a leatherbound box, in which there were documents marked TS/SCI. (Of course, they could also be seized if they fit one of the two other search criteria, a possible Presidential Record – as item 3 is described – or proof of obstruction.)

There are no classified documents identified in boxes A-12, A-13, A-14, or A-17, but they were likely stored in close proximity to boxes A-15, A-16, and A-18, which are described to contain documents with classification marks. There are no classified documents identified in boxes A-22, A-24, or A-26, but boxes A-23, A-27, and A-28 are listed as containing documents classified at various levels. Boxes A-71 and A-73 may have been stored in an entirely different place at Mar-a-Lago, but the former could have been seized under the proximal search protocol if it were stored in the same place as box A-73, which is listed as containing Top Secret documents.

If this is right, then these labels on boxes (and their inclusion in the inventory) would serve several purposes. It would signal which boxes *had* to be treated with greater care in seizing them and taking them to the FBI inventory. It would make it easy for those doing intake to identify where the most sensitive documents were and which documents needed to be sent for classification review. It would reveal to the public that the FBI found precisely what

it expected to find: stolen classified documents. And it would at least hint that the FBI did follow this proximal protocol, taking just 27 out of at least 73 boxes it reviewed, almost all of which appear to have been in close proximity to other classified documents.

The single solitary exception to what appears to be a practice of listing the contents of boxes in this entire inventory is the Roger Stone clemency.

1 - Executive Grant of Clemency re: Roger Jason Stone, Jr.

1A - Info re: President of France

It's possible 1A, the information on the French President, wasn't *part* of the clemency. Maybe Trump has a folder full of blackmail on people, and his blackmail on Emmanuel Macron was paper-clipped to his pardon for Stone. Maybe his filing system is just even more chaotic than reported, and Stone and Macron simply ended up in the same box, swimming through Trump's mementos for all eternity together.

But the most likely explanation of this, given the rest of the inventory, is that the information about a President of France is information included inside the Stone clemency.

If that's right, the reasons the FBI might have recorded the content of what would be a previously unknown Executive Grant of Clemency could be similar to the reasons listing the classified documents Trump had stored away. If this document is not a Presidential Record, a classified document, or proof of obstruction via evidence impairment (using a pardon to obstruct justice would not qualify under 18 USC 1519, unless the FBI were seizing it under a Plain View claim), then the FBI had no business taking it unless by dint of proximity to the leatherbound box containing TS/SCI documents. If this apparent grant of clemency weren't on official letterhead, for example, it's not clear that it would be a real grant of clemency, and so not a Presidential Record. Maybe Trump and

his rat-fucker just engage in pardon cosplay together to relive the old times, and they have a game to think up the most outlandish pardon? That may be one of the purposes of including the reference to a French President, if it's really part of the clemency. For example, the reference may appear potentially classified, perhaps non-public information obtained via intelligence intercepts, which would be another proper reason to seize the document under the warrant.

Of course, the FBI also might have recorded that tidbit for the same reason I keep coming back to it, because the agent looked at it and said WTF, and wanted to make sure someone else chased down what this is about.

Again, this is not definitive. But given the convention that seems to be used elsewhere in the warrant receipt, there is more evidence this is *not* the known commutation and pardon for Stone than that it is, because it appears to include something – some tie to a President of France – that neither of those do.

In a follow-up, I'll explain why this is not as outlandish as it seems.

Update: Here's a bureaucratic manual on FBI evidence collection. It's not really helpful but it's a guide to all the forms that are being filed to catalog stuff seized from Trump's home.

emptywheel Trump Espionage coverage

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18 USC 793e in the Time of Shadow Brokers and Donald Trump

[from Rayne] Other Possible Classified Materials in Trump's Safe

Trump's Stolen Documents

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Think That Word Means What Trump Wants the Press
To Think It Means

[from Rayne] Expected Response is Expected:
Trump and Right-Wing DARVO

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All Republican Gang of Eight Members Condone
Large-Scale Theft of Classified Information,
Press Yawns

Some Likely Exacerbating Factors that Would
Contribute to a Trump Search

FBI Executes a Search Warrant at 1100 S Ocean
Blvd, Palm Beach, FL 33480

The ABCs (and Provisions e, f, and g) of the
Espionage Act

Trump's Latest Tirade Proves Any Temporary
Restraining Order May Come Too Late

How Trump's Search Worked, with Nifty Graphic

Pat Philbin Knows Why the Bodies Are Buried

Rule of Law: DOJ Obtained Trump's Privilege-
Waived Documents in May

The French President May Be Contained Inside the
Roger Stone Clemency