

# DAN SCAVINO, ALONE WITH TRUMP, HAD ACCESS TO THE ATTEMPTED MURDER WEAPON

Since DC District unsealed Jack Smith's warrant to obtain Trump's Twitter account, I have described that one of the most important things prosecutors were seeking was attribution: to learn, before conducting an Executive Privilege-waived interview with Dan Scavino, whether Trump or Scavino wielded the murder weapon, Trump's Twitter account, that almost got Mike Pence killed three years ago.

Donald Trump nearly killed his Vice President by tweet – the tweet he sent at 2:24PM on January 6, 2021.

111. At 2:24 p.m., after advisors had left the Defendant alone in his dining room, the Defendant issued a Tweet intended to further delay and obstruct the certification: "Mike Pence didn't have the courage to do what should have been done to protect our Country and our Constitution, giving States a chance to certify a corrected set of facts, not the fraudulent or inaccurate ones which they were asked to previously certify. USA demands the truth!"

112. One minute later, at 2:25 p.m., the United States Secret Service was forced to evacuate the Vice President to a secure location.

113. At the Capitol, throughout

the afternoon, members of the crowd chanted, "Hang Mike Pence!"; "Where is Pence? Bring him out!"; and "Traitor Pence!"

114. The Defendant repeatedly refused to approve a message directing rioters to leave the Capitol, as urged by his most senior advisors-including the White House Counsel, a Deputy White House Counsel, the Chief of Staff, a Deputy Chief of Staff, and a Senior Advisor.

As the indictment tells it, at the time Trump sent his potentially lethal tweet, inciting the mob bearing down on Mike Pence, Pence's spouse, and daughter, Donald Trump was alone in his dining room with the murder weapon: an unknown phone, and his Twitter account.

But when DOJ served a warrant on Twitter for Trump's Twitter account on January 17, they couldn't be sure *who* was holding the murder weapon. They also wouldn't know whether triggering the murder weapon was coordinated with other events.

That explains why, as Thomas Windom described in a February 9 hearing, metadata from Trump's Twitter account showing any other account associated with his own may have been just as important for the investigation as any DMs obtained with the warrant.

MR. HOLTZBLATT: Well, Your Honor, we don't – the issue, Your Honor – there isn't a category of "associated account information"; that's not information that Twitter stores.

What we are doing right now is manually attempting to ascertain

links between accounts. But the ascertainment of links between accounts on the basis of machine, cookie, IP address, email address, or other account or device identifier is not information that Twitter possesses, it would be information that Twitter needs to create. So that's the reason why we had not previously produced it because it's not a category of information that we actually possess.

[snip]

MR. WINDOM: It is, as explained more fully in the warrant – but for these purposes, it is a useful tool in identifying what other accounts are being used by the same user or by the same device that has access to the account is oftentimes in any number of cases, user attribution is important. And if there are other accounts that a user is using, that is very important to the government's investigation.

[snip]

MR. HOLTZBLATT: That's right. If the records – if the linkage between accounts, which is what we understand this category to be referring to, is not itself a piece of information that we keep, then it's not a business record that we would ordinarily produce.

What I understand the government to be asking is for us to analyze our data, as opposed to produce existing data. And we

are trying to work with the government in that respect, but that is the reason that it is not something that – that is a different category of information. [my emphasis]

By that point, DOJ would have had Cassidy Hutchinson's testimony describing what she saw sitting outside Trump's dining room door (and once, going in to pass off Mark Meadows' phone). They would have had two grand jury appearances from the two Pats, Cipollone and Philbin, the White House Counsel and Deputy Counsel described in the passage. They would have had at least one interview with Eric Herschmann – the Senior Advisor trying to calm him down.

They did not yet have privilege waived testimony from the Chief of Staff – Mark Meadows – or the Deputy Chief of Staff – Dan Scavino.

And Dan Scavino was the most likely other person to know about that near murder by tweet, because Dan Scavino was in his position, the Deputy Chief of Staff, first and foremost because he had masterminded Trump's own mastery of Twitter going back to 2016.

So one thing DOJ needed to know before they conducted an interview that took place after Beryl Howell rejected yet another frivolous Executive Privilege claim in March was how Dan Scavino accessed Trump's Twitter account when he did, from what device.

Who else had access to Trump's Twitter account, one part of the murder weapon?

ABC News reported details from several of the interviews that took place after Jack Smith got

that Twitter warrant, including extensive details about what Scavino told prosecutors. Sure enough, he claimed that he had nothing to do with the Tweet that almost got Pence killed – that instead, he had left Trump alone with the murder weapon. He claimed – as the indictment made it clear he must have – that he wasn't in the room.

According to what sources said Scavino told Smith's team, Trump was "very angry" that day – not angry at what his supporters were doing to a pillar of American democracy, but steaming that the election was allegedly stolen from him and his supporters, who were "angry on his behalf." Scavino described it all as "very unsettling," sources said.

At times, Trump just sat silently at the head of the table, with his arms folded and his eyes locked on the TV, Scavino recounted, sources said.

After unsuccessfully trying for up to 20 minutes to persuade Trump to release some sort of calming statement, Scavino and others walked out of the dining room, leaving Trump alone, sources said. That's when, according to sources, Trump posted a message on his Twitter account saying that Pence "didn't have the courage to do what should have been done."

Trump's aides told investigators they were shocked by the post. Aside from Trump, Scavino was the only other person with access to Trump's Twitter account, and he was often the one actually posting messages to it, so when the message about Pence popped up, Cipollone and another White House attorney raced to find Scavino, demanding to know why he would post that in the midst of such a precarious situation, sources said.

Scavino said he was as blindsided by the

post as they were, insisting to them, “I didn’t do it,” according to the sources.  
[my emphasis]

Why would Pat Cipollone confront Scavino about the Tweet if “Scavino and others walked out of the dining room” – implicitly, walked out together – “leaving Trump alone”? Cipollone would only confront Scavino if he had believed that Scavino were still there with Trump, as his testimony describes he had been until just before Trump sent the Tweet.

The warrant on Twitter, which would have shown whether it is really true that Scavino was the only other person with access to Trump’s Twitter account, is not the only way Jack Smith tested this claim, knew the answer to this claim before interviewing Scavino.

As an expert witness notice revealed last month, Smith will call a witness at Trump’s trial to describe what they found on Trump’s White House phone and that of one other person – which might be Scavino, Nick Luna (whose testimony is also described in detail in the ABC piece), or one of several other people. That witness will explain when Trump’s phone was unlocked and using Twitter on January 6.

Expert 3 has knowledge, skill, experience, training, and education beyond the ordinary lay person regarding the analysis of cellular phone data, including the use of Twitter and other applications on cell phones. The Government expects that Expert 3 will testify that he/she: (1) extracted and processed data from the White House cell phones used by the defendant and one other individual (Individual 1); (2) reviewed and analyzed data on the defendant’s phone and on Individual 1’s phone, including analyzing images found on the phones and websites visited; (3) determined the usage of these phones throughout the post-election period,

including on and around January 6, 2021; and (4) specifically identified the periods of time during which the defendant's phone was unlocked and the Twitter application was open on January 6.

So whether it is true that Scavino was blindsided by the Tweet, as he told Jack Smith he told Cipollone, Jack Smith has Scavino's testimony that he wasn't present (again, as I said he must), Cipollone's testimony that Scavino said he wasn't present, and metadata consistent with Trump sending the Tweet himself.

As you read the rest of the ABC piece, keep two things in mind. This leaked testimony concentrates on other aspects of the claims made to Jack Smith about how Twitter was used that day, such as this description of Luna's testimony, describing that he warned Trump before the then-President sent a Tweet making him look "culpable" the day of the attack.

According to the sources, shortly before 6 p.m. on Jan. 6, Trump showed Luna a draft of a Twitter message he was thinking about posting: "These are the things and events that happen when a sacred landslide election victory is so unceremoniously and viciously stripped away from great patriots. ... Remember this day for forever!" it read.

The message echoed what Trump had allegedly been saying privately all day.

Sources said Luna told Trump that it made him sound "culpable" for the violence, perhaps even as if he may have somehow been involved in "directing" it, sources said.

Still, at 6:01 p.m., Trump posted the message anyway.

That testimony – that Luna warned Trump the

Tweet would make him look like he was responsible for the violence – will only strengthen the extent to which this Tweet was already going to be used to prove that Trump *ratified* the violence, effectively showing that Trump remained in a conspiracy with those who violently attacked the Capitol even after watching them do so.

Which brings me to the second point. Multiple people who gave this testimony – and probably the person or persons who shared it with ABC – claim to believe that they witnessed that Trump almost murdered his Vice President, someone who had been just as (or in Scavino's case, almost as) loyal as they had been.

Again, there has to be a bunch of metadata that is consistent with the stories told to Jack Smith, so it's not so much I doubt Scavino's claim that he was not in the room when that Tweet was sent out. It's that this testimony came from people who chose to stick around – some of whom, including Scavino, continue to stick around – knowing that if Trump ever turns on them he wouldn't stop short of using his mob to get them killed.