

# LAUREN CHEN'S CURIOUS LEGAL STATUS

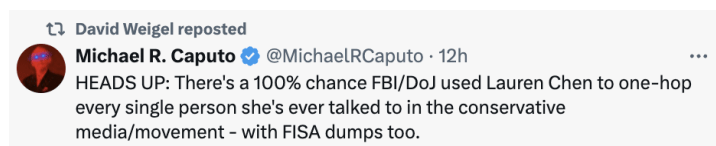
I'm planning (and have already started) a post on how last week's Russian actions may serve to disrupt Russia's attempts to tamper in the election more broadly, after which I plan to do a post on the efficacy of this all.

But before that, I want to address two details about last week's legal actions – the indictment of two RT personnel for acting as unregistered foreign agents and the takedown of a bunch of Doppelganger sites – that people are likely getting wrong.

The first has to do with the legal status of Lauren Chen, the founder of Tenet Media, and how that would impact the investigative techniques used in this investigation.

The other right wing operations with which Chen had affiliations, including Glenn Beck and Turning Point USA, have now turned her into an unperson, removing her from their sites (though her affiliation to them remains on her Xitter account).

But that hasn't stopped a general right wing panic about the communications the government must have. Many – including Michael Caputo – are insisting that the FBI must have used the FISA to target her.



What Caputo is referring to as "one-hop" may be a misstatement of what DOJ used to do with Section 215 of FISA, obtaining metadata of people two degrees from terrorist suspects overseas. If so, it's a dumb comment, because the FBI can do all that with subpoenas using criminal process far easier than they can do it with FISA.

Yet that's common. What people of all political stripes (including many if not most in the privacy community) often ignore is that the FBI can do most of the things they would do with FISA using criminal process, and do it with a whole lot less paperwork and in a way that makes the information far more useful for prosecutions like this one. As I noted here, some of what DOJ showed in this indictment, like content from Chen's Discord servers and the Google accounts of Konstantyn Kalashnikov and Elena Afanasyeva, would undoubtedly be criminal process, even if they were first obtained via 702 targeting of Kalashnikov and Afanasyeva.

The investigative techniques they would use with Chen would stem from her really curious legal status.

The indictment introduces Chen and her spouse, Liam Donovan, as foreign nationals – Chen, at least, is Canadian – who reside in the US.

Founder-1 and Founder-2 are foreign nationals who reside in the United States. Founder-1 and Founder-2 jointly control and operate U.S. Company-1, and they are the only authorized signatories for U.S. Company-1's business checking account (the "U.S. Company-1 Bank Account"), which is held at a bank in the United States.

The indictment never describes the visa status of either one. But Tenet – US Company-1 – is a US Company and would be a US person for FISA purposes. Regardless of their visa status, Chen and Donovan's US residency would prohibit targeting of them using FISA 702, at least so long as they are in the US. If the FBI wanted to use FISA against them, they'd need an individualized warrant.

Things get more interesting, though, when you consider RT's status in all this.

Let's work backwards, Matryoshka doll like.

As the indictment describes, Chen and Donovan set up Tenet Media to be a subsidiary of Chen's Canadian company.

11. U.S. Company-1 is a United States corporation established under the laws of Tennessee. Founder-1 has described U.S. Company-1 as the U.S. subsidiary of Founder-1's Canadian company, Canadian Company-1;

[snip]

Founder-1 incorporated U.S. Company-1 on or about January 19, 2022, and applied with the Tennessee Department of State to transact business under its current operating name, which Company-1 uses on its website and social media channels, on or about May 22, 2023.

The contracts Chen set up directly pertaining to Tenet had this dual status. She got paid via her Canadian company; the talent got paid via the American one.

25. On or about May 12, 2023, Founder-1 sent an email to Persona-1 in which Founder-1 proposed that "we ... keep the contract between us with my Canadian company ([Canadian Company-1]), but for [Commentator-2]'s contract, it will be through our American subsidiary, [U.S. Company-1]." In a subsequent email on or about May 19, 2023, Founder-1 explained that Founder-1 wished for "my personal payment [to] be under [Canadian Company-1] but the payments for the influencers go directly to [U.S. Company-1]."

26. On or about June 13, 2023, consistent with Founder-1's proposal, Persona-1 emailed Founder-1 a final "service agreement" that named Founder-1, Canadian Company-1, and U.S. Company-1 as the service providers. The contract provided for a monthly fee of

\$8,000 for the “first stage,” a monthly fee of \$25,000 per month for the “second stage” after signing Commentator-1 and Commentator-2, and additional performance incentives and commissions for “engagements closed with talents.”

As a result, much (though not all) of the funding for Chen, personally, would go through Canada; the funding for the talent went through the US, using a corresponding bank in New York.

a. Starting in approximately August 2023, Founder-1 and Founder-2 typically submitted two invoices each month to Persona-1 on the Investor Discord Channel: one invoice for U.S. Company-1 's expenses, such as its payments to its commentators, and another invoice for Founder-1 and Founder-2's own fees and commissions. Between in or about August 2023 and in or about June 2024, Founder-1 and Founder-2 invoiced U.K. Shell Entity-I more than \$9.3 million for U.S. Company-1 's expenses, which they asked to be paid to the U.S. Company-I Bank Account. Founder-1 and Founder-2 also invoiced U.K. Shell Entity-1 more than \$760,000 for their own fees and commissions, some of which they asked to be paid to Canadian Company-1 's bank account in Canada, and some of which they asked to be paid to the U.S. Company-1 Bank Account in the United States.

b. After Founder-1 and Founder-2 transmitted their monthly invoices to Persona-1 on the Investor Discord Channel, Persona-1 typically acknowledged receipt and confirmed payment. Between in or about October 2023 and in or about August 2024, the U.S. Company-1 Bank Account received approximately 30 wire transfers from foreign entities totaling approximately \$9.7 million. U.S. Company-1 disbursed

most of these funds to its contracted commentators, including approximately \$8.7 million to the production companies of Commentator-1, Commentator-2, and Commentator-3 alone. Consistent with Founder-1 's February 8, 2023 warning to Persona-1 that "it would be very hard ... to recoup the costs for the likes of [Commentator-1] and [Commentator-2] based on ad revenue from web traffic or sponsors alone," U.S. Company-1 's foreign wire transfers far exceeded its receipts of advertising revenue. Indeed, the approximately \$9.7 million that U.S. Company-1 received from foreign wire transfers represented nearly 90% of all the deposits into the U.S. Company-1 Bank Account from in or about October 2023 to in or about August 2024.

[snip]

43. To deliver funds into the U.S. Company-1 Bank Account, each of U.S. Company-1 's 30 inbound international wire transfers -which totaled nearly \$10 million, as set forth above – utilized a correspondent bank in Manhattan, New York.

The stuff that came into the US had cover descriptions that Chen had to have known were false.

42. Contrary to U.S. Company-1 's invoices, which reflect fees for staff and commentators (as well as Founder-I and Founder-2's commissions), the wire notes of many of U.S. Company-1 's inbound wire transfers ascribe the payments to the purchase of electronics. For example, the wire note for Turkish Shell Entity-1 's \$318,800 wire payment to U.S. Company-I on March 1, 2024 read: "BUYING GOODS-INV.013-IPHONE 15 PRO MAX 512GB."

But that all describes what happened in 2023 and since. What happened before that is really important: As the indictment describes, before the invasion of Ukraine, Chen got paid directly from RT.

Before operating U.S. Company-I for RT, as set forth below, Founder-I and Founder-2 worked directly for RT and its affiliates, including as follows:

a. From in or about March 2021 to in or about February 2022, Founder-I created videos, posted social media content, and wrote articles pursuant to a written contract between Founder-1 's Canadian company ("Canadian Company-I "), and RT's parent organization, ANO TV-Novosti. This content generally consisted of English-language social commentary. RT directly published some of Founder-1 's paid work, while Founder-1 posted other of Founder-1 's paid work on Founder-1 's personal accounts (without attribution to RT). For example, Founder-1 's invoices reflect that Founder-I billed ANO TV-Novosti for approximately 217 videos, of which approximately 209 were published on Founder-1 's personal YouTube channels. Founder-1 also wrote approximately 25 opinion articles that were published on RT's website, at least 19 of which Founder-1 billed to ANO TV-Novosti. None of Founder-1 's articles disclosed that Founder-1 was paid by RT to write them.

And Donovan got paid by RT and Ruptly until later than that: May 2022.

From in or about October 2021 to in or about May 2022, separate and apart from Founder-1 's contract with RT's parent organization, ANO-TV Novosti, Founder-2 also worked directly for RT and with Ruptly GmbH, RT's German subsidiary.

Founder-2's paid work for RT included, among other things, preparing English-language text messages describing news events. During this time, Founder-2 and KALASHNIKOV appear to have had overlapping business contacts: On or about May 18, 2022, a Ruptly GmbH employee sent a Russian-language email to six recipients, including Founder-2 and KALASHNIKOV, requesting that they send their work email addresses to gain account access to Ruptly's website.

The indictment doesn't directly allege that Chen and Donovan knew they were (still) working with RT in the Tenet venture. It stops just short of doing so, possibly to protect the full details of what it knows. But it does include proof they knew they were working with Russians pretending to be French.

On or about April 17, 2023, Founder-1 replied, in part, that Founder-1 was "happy to work with the Russian firm." As set forth below, this "Russian firm" consisted of KALASHNIKOV and AFANASYEVA, who later monitored and directed U.S. Company-1's activities under the guise of an outside editing firm.

[snip]

27. Despite describing U.S. Company-1 's investor to Commentator-1 and Commentator-2 as "Eduard Grigoriann," a purported finance professional in Western Europe, Founder-1 and Founder-2 admitted to each other in their private communications that their "investors" were, in truth and in fact, the "Russians" – the same term that Founder-1 and Founder-2 previously used to refer to RT while working directly under contract with RT, as described above.

[snip]

30. Founder-2 also used the Investor Discord Channel to, among other things, submit U.S. Company-1 's invoices to Persona-1, and to press for payment of those invoices. For example, on or about September 11 , 2023, at approximately 8:07 p.m. Central Time, Founder-2 wrote in the Investor Discord Channel: "Today marks two weeks since I submitted the invoice for August. Any idea for the delay? We are signing the large contracts and need to be certain we will get the funding to pay these people." Persona-1 did not immediately respond. While awaiting a reply from Persona-1, Founder-1 searched for the then-current time in Moscow. Specifically, at approximately 8:50 p.m. Central Time on or about September 11, 2023, Founder-1 searched on Google: "time in Moscow."

So Chen and Donovan used to work directly for RT, and then just about the time of the Ukrainian invasion, set up shop in the US, allegedly participating in a ruse by which they hid the Russian source of their funding. But the funding went both through a bank in New York to their US subsidiary of the Canadian company, and also to the Canadian company that used to get paid directly by RT.

Here's where things get interesting. First, after the invasion, Canada banned RT broadcasts.

In or about March 2022, following Russia's invasion of Ukraine in February 2022, the European Union, the United Kingdom, and Canada banned broadcasting by RT. That same month, RT also ceased its operations in the United States after major television distributors dropped the network.

Until last week, the US had not yet sanctioned RT, but in their sanctioning documents, they reminded that RT registered as a foreign agent



back in 2017.

RT, formerly Russia Today, is a Russian state-funded news outlet that began broadcasting internationally in 2005. In 2017, RT registered as an agent of a foreign government in the United States.

The indictment makes clear that RT itself acknowledges the outlet is funded by the Russian government.

RT is a Russian state-funded and state-directed media outlet. As RT's editor-in-chief has publicly acknowledged, "since RT receives budget from the state, it must complete tasks given by the state."

That makes it an agent of the Russian government the agents of which are subject to 18 USC 951, not just a foreign entity covered by FARA.

And the indictment likewise makes clear that RT publicly acknowledged working covertly after the invasion of Ukraine.

For example, on or about February 25, 2024, RT's editor-in-chief declared, during a Russian television appearance, that "public opinion in the West is changing, very rapidly and very cheerfully," due in part to RT. RT's editor-in-chief further explained that, despite being "banished everywhere on February 25" – referring to the start of Russia's invasion of Ukraine in February 2022 – RT had built "an enormous network, an entire empire of covert projects that is working with the public opinion, bringing truth to Western audiences."

Lauren Chen is a Canadian citizen, resident in the US; her US residency should prevent FBI from targeting *her* in the US using 702 and would

require a traditional FISA warrant to target her directly. There are ways she set up her Discord server that may make *it* susceptible to 702 targeting from the time she added the RT personnel to it.

But that's not the big issue, in my opinion.

Chen set up this business such that she'd be subject to the laws of and some tax burdens in both Canada and the US. She did that at precisely the moment where the impending invasion of Ukraine made such issues more sensitive. And since then, she has done things that provide some evidence that she's in on the ruse: that she knows she's evading some laws or regimes by using corporate and financial cut-outs.

Those things likely provide enough to make her US accounts subject to probable cause warrants.

So Michael Caputo doesn't need to worry about whether he or his buddies got picked up via FISA. Because the FBI – working in partnership with Canada and other countries through which RT laundered this operation – likely had plenty to conduct an investigation implicating both counterintelligence and criminal matters.

What Caputo and others need to worry about is how much of the content collected as a result FBI has demonstrated probable cause to access.