

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

IN RE REQUEST TO MAKE PUBLIC LIST OF  
INVESTIGATIVE MATTERS RELATED TO  
SPECIAL COUNSEL'S INVESTIGATION

Miscellaneous Action No. 19-58

Chief Judge Beryl A. Howell

**ORDER**

On May 16, 2019, Cable News Network, Inc. (“CNN”) and its journalist, Katelyn Polantz, requested that the Court “make public a list of the miscellaneous matters before this Court that were initiated by the Office of Special Counsel or otherwise involved the Office during its investigation into Russian interference in the 2016 presidential election.” *See* Letter from CNN (May 16, 2019) (“CNN Ltr.”) at 1, ECF No. 2. CNN sought the release of dockets for “all non-grand jury subpoena matters, search warrant applications and orders, applications and orders for communication records, applications and orders authorizing use of pen registers, requests for assistance to foreign governments, and any other matters in which the Special Counsel sought assistance or authorization from this Court.” *Id.* For those dockets, CNN asked that the “Court publicly release as much information . . . as possible” and “that, at a minimum, this Court make public the case numbers, filing dates, and captions of the above referenced matters.” *Id.* at 2.

CNN’s requests correlate with disclosures made in the report issued by Special Counsel Robert S. Mueller, III on Russian interference with the 2016 presidential election, which report indicated that:

During its investigation the [Special Counsel’s] Office issued more than 2,800 subpoenas under the auspices of a grand jury sitting in the District of

Columbia; executed nearly 500 search-and-seizure warrants; obtained more than 230 orders for communications records under 18 U.S.C. § 2703(d); obtained almost 50 orders authorizing use of pen registers; made 13 requests to foreign governments pursuant to Mutual Legal Assistance Treaties; and interviewed approximately 500 witnesses, including almost 80 before the grand jury.

Robert S. Mueller, *Report on the Investigation into Russian Interference in the 2016 Presidential Election* (Mar. 2019) at Vol. I, p. 13.<sup>1</sup>

On May 20, 2019, the Court provided the government with access to lists of limited information about sealed dockets related to the Special Counsel's investigation and directed the government to notify the Court by May 28, 2019 of any objections to release of that information. Min. Order (May 20, 2019). Shortly after, the government advised that it did not object to the release of "the vast majority of that information." *See* Gov't's Status Report, ECF No. 11. Still, the government identified "a few entries on the lists that the government may request be redacted from a public release to protect ongoing law enforcement interests." *Id.* The government was given additional time to propose redactions. Min. Order (May 28, 2019). A few weeks later, the government sought leave to file an *ex parte* submission with additional redactions. Gov't's Mot. to Submit Material *Ex Parte*, ECF No. 16. After granting that motion, *see* Min. Order (June 20, 2019), the Court reviewed the government's proposed redactions.

Upon review of the government's submission, the government's proposed redactions will be applied to the lists of limited information about sealed dockets to protect the integrity of ongoing investigations. With those additional redactions, the Court will release limited docket

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<sup>1</sup> Attorney General William P. Barr's March 24, 2019 letter to Congress similarly summarized both the types and volume of investigative orders that the Special Counsel sought. *See* Letter from Attorney General William P. Barr to Senator Lindsey Graham, *et al.* (Mar. 24, 2019).

information for sealed non-grand jury matters, including case numbers, filing dates, and redacted captions, related to the Special Counsel's investigation.<sup>2</sup>

As CNN notes, disclosing this information accords with this Court's practice of publishing appropriately limited information about sealed dockets, CNN Ltr. at 2, and with the common law right of "access to the [pen register and/or trap and trace devices], § 2703(d) and [Stored Communications Act] warrant matter docket information," *In re Appl. Of Jason Leopold to Unseal Certain Elec. Surveillance Applications & Orders*, 300 F. Supp. 3d 61, 97 (D.D.C. 2018). Indeed, biannually, this Court unseals limited docket information for otherwise sealed: (1) applications filed by the U.S. Attorney's Office for the District of Columbia ("USAO-DC") to obtain communications records, under 18 U.S.C. § 2703(a)-(d); (2) applications filed by the USAO-DC for orders to use pen register and/or trap and trace ("PR/TT") devices, under 18 U.S.C. §§ 3122 and 3123(b); and (3) applications by the Office of International Affairs ("OIA") of the Criminal Division of the U.S. Department of Justice to obtain communications records, under 18 U.S.C. § 2703(d), related to requests made under 18 U.S.C. § 3512. *See, e.g.*, Orders and Notices, *In re Appl. of Jason Leopold to Unseal Certain Electronic Surveillance Appl. and Orders*, No. 13-mc-712 (Sept. 21, 2016, Feb. 22, 2017, and Apr. 24, 2017), ECF Nos. 22, 32, and 37; Order and Notice, *In re Disclosure of Pen Registers from January 1, 2017 through September 30, 2017*, No. 18-mc-61 (Apr. 30, 2018), ECF No. 1; Standing Order No. 18-46, *Disclosure of Limited Docket Lists for Certain Sealed Appl. Filed by USAO-DC* (Oct. 2, 2018); Standing Order No. 18-48, *Disclosure of Limited Docket Lists for Certain Sealed Appl. Filed by*

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<sup>2</sup> The Special Counsel's 13 requests for assistance from foreign governments are just that: requests to foreign governments. Consequently, these requests do not generate a docket in this Court.

*OIA* (Oct. 16, 2018); Standing Order No. 19-15, *Disclosure of Limited Docket Lists for Certain Sealed Appl. Filed by USAO-DC* (Apr. 3, 2019); Standing Order No. 19-17, *Disclosure of Limited Docket Lists for Certain Sealed Appl. Filed by OIA* (Apr. 17, 2019).

Accordingly, for the foregoing reasons, it is hereby

**ORDERED** that the list of 499 docket, with some limited associated information, for applications for search warrants under Federal Rule of Criminal Procedure 41 and applications for orders under 18 U.S.C. § 2703(a)–(c), attached hereto as Attachment A, be unsealed; and it is further

**ORDERED** that the list of 179 docket for applications for orders under 18 U.S.C. § 2703(d), attached hereto as Attachment B, be unsealed; and it is further

**ORDERED** that the list of 21 docket for PR/TT applications for orders under 18 U.S.C. §§ 3122 and 3123(b), attached hereto as Attachment C, be unsealed<sup>3</sup>; and it is

**ORDERED** that the Clerk of the Court make publicly accessible this Order with attachments on the appropriate location of this Court’s website.

**SO ORDERED.**

Date: June 24, 2019

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BERYL A. HOWELL  
Chief Judge

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<sup>3</sup> Although 21 docket were opened for PR/TT applications, after including extensions, the Court entered 49 PR/TT orders.