

From: [Friedman, Michael \(USADC\)](#)
To: [Kohl, Ken \(USADC\)](#); [Raimondi, Marc \(PAO\)](#); [Newman, David A. \(ODAG\)](#)
Cc: [Cooper, Renata \(USADC\)](#); [Maisel, Gregg \(USADC\)](#)
Subject: RE: Twitter
Date: Wednesday, May 19, 2021 4:47:00 PM

(b)(5)

- 1 - A Twitter user posted a threat to kill a US Senator as a comment on the NunesAlt Twitter feed (10-27-20);
- 2 – The USCP initiated an investigation, but an analyst mistakenly believed that the threat was posted by the NunesAlt account itself (10-27-20);
- 3 – The grand jury issued a subpoena for subscriber information based on that mistaken understanding (11-24-20);
- 4 – After Twitter filed its motion to quash, the USCP realized its mistake and informed the DOJ that the subpoena sought information on the wrong account (3-12-21);
- 5 – We withdrew the subpoena (3-17-21);
- 6 – The court denied Twitter’s motion to quash as moot because the subpoena was withdrawn (3-21-21)

This rebuts the false impression in many media sources that the DOJ used the power of the grand jury for political purposes and not to investigate a crime.

Michael Friedman (b)(6), (b)(7)(C)

From: Kohl, Ken (USADC) (b)(6), (b)(7)(C)
Sent: Wednesday, May 19, 2021 4:29 PM
To: Raimondi, Marc (PAO) <Marc.Raimondi@usdoj.gov>; Friedman, Michael (USADC) (b)(6), (b)(7)(C); Newman, David A. (ODAG) (b)(6)
Cc: Cooper, Renata (USADC) (b)(6), (b)(7)(C); Maisel, Gregg (USADC) (b)(6), (b)(7)(C)
Subject: RE: Twitter

It seems the NYTs wasn’t listening to our explanation. Regardless of administration, DOJ does not issue subpoenas targeting individuals “engaged in political commentary protected by the First Amendment.” This particular investigation related to a threat to kill a United States Senator that was posted as comment on the parody Twitter account, @NunesAlt – a comment that Twitter itself removed from the site because it was deemed to violate Twitter’s own terms of service and community guidelines.

From: Raimondi, Marc (PAO) <Marc.Raimondi@usdoj.gov>
Sent: Wednesday, May 19, 2021 4:17 PM
To: Kohl, Ken (USADC) (b)(6), (b)(7)(C); Friedman, Michael (USADC) (b)(6), (b)(7)(C); Newman, David A. (ODAG) (b)(6)

Cc: Cooper, Renata (USADC) (b)(6), (b)(7)(C); Maisel, Gregg (USADC)
(b)(6), (b)(7)(C)

Subject: RE: Twitter

NYT: "The Capitol Police are conducting an inquiry related to a subpoena to Twitter about a Devin Nunes parody account.," Charlie Savage, May 19, 2021

<https://www.nytimes.com/2021/05/18/us/nunes-twitter-trump-threat-parody.html>

The United States Capitol Police confirmed on Tuesday that it is conducting a criminal investigation related to a subpoena to Twitter for information about a pseudonymous account dedicated to mocking Representative Devin Nunes, Republican of California.

The investigation is examining a threat made online and is still open, said a spokesman for the police force, which protects members of Congress, adding that he was unable to say more.

Little is known publicly about the case, and it was not clear whether the user of the parody Twitter account, @NunesAlt, remains under any scrutiny as part of that ongoing inquiry.

The disclosure by the Capitol Police came a day after the Justice Department unsealed court filings that disclosed that prosecutors had obtained a grand jury subpoena on Nov. 24, while President Donald J. Trump was still in office, demanding that Twitter provide identifying information about @NunesAlt.

A person familiar with the matter told The New York Times on Monday that the Biden Justice Department had withdrawn the subpoena after Twitter challenged it. On Tuesday, the department unsealed another court filing confirming that it had done so. The filing showed that prosecutors told Twitter they had dropped the subpoena on March 17.

Twitter routinely cooperates with grand-jury subpoenas. But in this case it saw the user as engaged in political commentary protected by the First Amendment, and raised the specter that the Trump-era Justice Department had abused its power to help an ally of the president.

In the filing, Twitter noted that Mr. Nunes and his lawyer had previously filed several lawsuits trying to identify people who had criticized him on social media — including the user of the @NunesAlt parody account, which calls itself Mr. Nunes's mother and posts memes mocking him.

When Twitter pressed prosecutors for the basis of the subpoena, they said it was for a threat investigation but declined to point to anything specific @NunesAlt had posted that was threatening, the unsealed documents show. The user of that account has said that he or she made no threat.

From: Kohl, Ken (USADC) (b)(6), (b)(7)(C)

Sent: Wednesday, May 19, 2021 4:09 PM

To: Friedman, Michael (USADC) (b)(6), (b)(7)(C); Newman, David A. (ODAG)

(b)(6)

Cc: Raimondi, Marc (PAO) <Marc.Raimondi@usdoj.gov>; Cooper, Renata (USADC)

(b)(6), (b)(7)(C); Maisel, Gregg (USADC) (b)(6), (b)(7)(C)

Subject: RE: Twitter

Marc, I assume you have all you need at this point – and that the reporters are now (hopefully) losing interest in this story – but if you need anything else, pls give me a call.

Ken

(b)(6), (b)(7)(C)

From: Friedman, Michael (USADC) (b)(6), (b)(7)(C)

Sent: Wednesday, May 19, 2021 2:58 PM

To: Newman, David A. (ODAG) (b)(6)

Cc: Raimondi, Marc (PAO) <Marc.Raimondi@usdoj.gov>; Cooper, Renata (USADC)

(b)(6), (b)(7)(C); Kohl, Ken (USADC) (b)(6), (b)(7)(C); Maisel, Gregg (USADC)

(b)(6), (b)(7)(C)

Subject: Re: Twitter

And from reviewing the initial intel report that Agent (b)(6), (b)(7)(C) sent to me today, it appears to me that the threat was posted as a comment to a NunesAlt tweet, and then removed by Twitter as a violation of its rules. See attached.

On May 19, 2021, at 2:54 PM, Friedman, Michael (USADC) (b)(6), (b)(7)(C) wrote:

Marc, I separately forwarded to you and others my 3-12-21 communication with the USCP agent, where she let me know for the first time that attributing the threatening tweet to NunesAlt was an error by an analyst, and that it was a different account that made the threat. So USCP does NOT maintain that the NunesAlt account made a threat. After learning about the error, we informed Twitter counsel that the subpoena is withdrawn.

On May 19, 2021, at 2:46 PM, Newman, David A. (ODAG)

(b)(6) wrote:

Would defer to USAO-DC on the facts of what happened, but based on Charlie Savage's article last night I understood him to be reporting that the US Capitol Police confirmed that the subpoena related to an "open" investigation into online threats – but not that they believe the threat

originated from the @NunesAlt account or the account in question remains under scrutiny.

The United States Capitol Police confirmed on Tuesday that it was **conducting a criminal investigation related to a subpoena to Twitter** for information about a pseudonymous account dedicated to mocking Representative Devin Nunes, Republican of California.

The **investigation is examining a threat made online and is still open**, said a spokesman for the police force, which protects members of Congress, adding that he was unable to say more.

Little is known publicly about the case, **and it is not clear whether the user of the parody Twitter account, @NunesAlt, remains under any scrutiny as part of that ongoing inquiry.**

The disclosure by the Capitol Police came a day after [the Justice Department unsealed](#) court filings that disclosed that prosecutors had obtained a grand jury subpoena on Nov. 24, while President Donald J. Trump was still in office, demanding that Twitter provide identifying information about @NunesAlt.

<https://www.nytimes.com/2021/05/18/us/nunes-twitter-trump-threat-parody.html>

From: Raimondi, Marc (PAO) <Marc.Raimondi@usdoj.gov>
Sent: Wednesday, May 19, 2021 2:41 PM
To: Friedman, Michael (USADC) (b)(6), (b)(7)(C); Cooper, Renata (USADC) (b)(6), (b)(7)(C); Kohl, Ken (USADC) (b)(6), (b)(7)(C); Maisel, Gregg (USADC) (b)(6), (b)(7)(C); Newman, David A. (ODAG) (b)(6)
Subject: RE: Twitter

Do they stand behind the assertion that the threat, "KILL MITCH

MCCONNELL" was posted by @NunesAlt

I thought from previous conversation it may have been retweeted by the account but not originated from.

This is important because if it was done in error, we should ascertain that.

Thanks much,
Marc

From: Friedman, Michael (USADC) (b)(6), (b)(7)(C)
Sent: Wednesday, May 19, 2021 1:59 PM
To: Raimondi, Marc (PAO) <Marc.Raimondi@usdoj.gov>; Cooper, Renata (USADC) (b)(6), (b)(7)(C); Kohl, Ken (USADC) (b)(6), (b)(7)(C); Maisel, Gregg (USADC) (b)(6), (b)(7)(C)
Subject: RE: Twitter

And attached here is the request for subpoena that Agent (b)(6), (b)(7)(C) sent to the USAO-DC on 11-19-20.

From: Friedman, Michael (USADC)
Sent: Wednesday, May 19, 2021 1:57 PM
To: Raimondi, Marc (PAO) <Marc.Raimondi@usdoj.gov>; Cooper, Renata (USADC) (b)(6), (b)(7)(C); Kohl, Ken (USADC) (b)(6), (b)(7)(C); Maisel, Gregg (USADC) (b)(6), (b)(7)(C)
Subject: FW: Twitter

See below, Agent (b)(6), (b)(7)(C) confirmed to me again a moment ago that the investigation is suspended. Attached here is the court's minute order from 3-19-21 denying Twitter's motion to quash – this was unsealed yesterday. Agent (b)(6), (b)(7)(C) also sent me a moment ago the initial notification that was forwarded to her for the case lead. – Michael Friedman (202) 252-6765

From: Friedman, Michael (USADC)
Sent: Wednesday, May 19, 2021 1:47 PM
To: Kohl, Ken (USADC) (b)(6), (b)(7)(C)
Subject: RE: Twitter

Agent (b)(6), (b)(7)(C) confirmed for me again a moment ago that the investigation is suspended. She said she would reach out to USCP public affairs to see if someone there is operating under a misunderstanding. She is going to forward me the original tweet and the intel report in a moment. --
Michael

From: Kohl, Ken (USADC) (b)(6), (b)(7)(C)
Sent: Wednesday, May 19, 2021 1:31 PM
To: Friedman, Michael (USADC) (b)(6), (b)(7)(C)
Subject: FW: Twitter

Michael, see below.

From: Raimondi, Marc (PAO) <Marc.Raimondi@usdoj.gov>
Sent: Wednesday, May 19, 2021 1:25 PM
To: Cooper, Renata (USADC) (b)(6), (b)(7)(C); Newman, David A. (ODAG) (b)(6); Pietranton, Kelsey (PAO) <Kelsey.Pietranton@usdoj.gov>
Cc: Kohl, Ken (USADC) (b)(6), (b)(7)(C); Crabb, John D. (USADC) (b)(6), (b)(7)(C)
Subject: RE: Twitter

Team, do we know what the specific tweet was against Sen. McConnell? I'd like to see it if we do. Also, do we know if the Nunnes cow/mom accounts that the media are writing about re-tweeted it or what connection they had to the McConnell threats?

(b)(6), (b)(7)(C) just called me and told me that the USCP told him the investigation was still open and ongoing, not closed or "suspended." Do we think Twitter is going to push back on any other accounts we are seeking process on? Would like to avoid round two if possible.

From: Cooper, Renata (USADC) (b)(6), (b)(7)(C)
Sent: Tuesday, May 18, 2021 3:46 PM
To: Newman, David A. (ODAG) (b)(6); Raimondi, Marc (PAO) <Marc.Raimondi@usdoj.gov>; Pietranton, Kelsey (PAO) <Kelsey.Pietranton@usdoj.gov>
Cc: Kohl, Ken (USADC) (b)(6), (b)(7)(C); Crabb, John D. (USADC) (b)(6), (b)(7)(C)
Subject: RE: Twitter

AUSA Michael Friedman has now filed a one-sentence Notice of Filing, referring to the court's Minute Order from yesterday (b)(5). He also filed the "Opposition" as an Attachment. Please see the attached documents.

Further, USAO-DC National Security Section Chief Gregg Maisel Advises:

In terms of background, Michael told the attorney for Twitter, back in January, that this was a GJ investigation of a possible violation of 18 USC 875(c), which prohibits transmitting threats in interstate commerce. (b)(5)

[REDACTED]

Renata Kendrick Cooper
Executive Assistant United States Attorney
for External Affairs
U.S. Attorney's Office for the District of Columbia
(b)(6), (b)(7)(C) (office cellphone)

From: Newman, David A. (ODAG) (b)(6)
Sent: Tuesday, May 18, 2021 1:31 PM
To: Kohl, Ken (USADC) (b)(6), (b)(7)(C)
Cc: Raimondi, Marc (PAO) <Marc.Raimondi@usdoj.gov>; Pietranton, Kelsey (PAO) <Kelsey.Pietranton@usdoj.gov>; Cooper, Renata (USADC) (b)(6), (b)(7)(C); Crabb, John D. (USADC) (b)(6), (b)(7)(C); Newman, David A. (ODAG) (b)(6)
Subject: Re: Twitter

(b)(5)

On May 18, 2021, at 12:54 PM, Kohl, Ken (USADC) (b)(6), (b)(7)(C) wrote:

David/Marc, here's the background:

On 11/19/2020, a US Capitol Police investigator asked our office for a grand jury subpoena relating to a threat posted on Twitter parody account: @NunesAlt. The USCP provided the following justification language: "On 10/27/2020 a subject using the Twitter screen name @NunesAlt made the following threatening statement directed at Rep Nunes and Sen McConnell "KILL MITCH MCCONNELL"" We issued a GJ subpoena for subscriber info as requested.

We later learned in March, after Twitter filed a motion to quash, that the McConnell threat was posted *as a comment* to the Twitter account, and not by the subscriber of that Twitter parody account (@NunesAlt). So we withdrew the subpoena, and the motion to quash was denied as moot.

Chief Judge Howell has ordered us to file on ECF by tomorrow a copy of the government's response (attached) to Twitter's motion to quash (redacting out our AUSA's name and contact info, which Twitter left in its filing). If it's helpful, we could file that document today – to make clear that we've withdrawn the subpoena.

Feel free to give me a call if you need additional info.

Ken

Kenneth Kohl
Acting Principal Assistant U.S. Attorney
U.S. Attorney's Office (DC)

(b)(6), (b)(7)(C)

From: Raimondi, Marc (PAO) <Marc.Raimondi@usdoj.gov>

Sent: Tuesday, May 18, 2021 12:23 PM

To: Kohl, Ken (USADC) (b)(6), (b)(7)(C); Crabb, John D. (USADC) (b)(6), (b)(7)(C); Cooper, Renata (USADC)

(b)(6), (b)(7)(C)

Cc: Pietranton, Kelsey (PAO)

<Kelsey.Pietranton@usdoj.gov>; Newman, David A. (ODAG)

(b)(6)

Subject: Twitter

Team DC, It appears that a lot of reporters may be getting this issue wrong.

I think it makes sense for USAO-DC to consider coming up with a basic timeline and explanation of the facts of how we got to where we did and explain that the issue has been addressed.

We are happy to help review the response before you use it.

Marc Raimondi

Deputy Director of Public Affairs (acting)

U.S. Department of Justice

Marc.raimondi@usdoj.gov

(b)(6)

All correspondence contained in this e-mail, to include all names and associated contact information, may be subject to the Freedom of Information Act (FOIA), 5 U.S.C. § 552.

<US Memorandum in Opposition.pdf>