

THE ARPAIO PARDON — DON'T OBSESS ABOUT THE RUSSIAN INVESTIGATION

It seems there are two likely responses to the Arpaio pardon: to use it as a teaching opportunity about race, or to use it to panic about the Russian investigation.

I'm seeing far too many people choosing the latter option, focusing on what Trump's pardon of Joe Arpaio might do for the Russian investigation. That, in spite of the fact that Trump has already spoken openly of pardoning Mike Flynn, just like he did of Arpaio, to say nothing of his spawn or the father of his grandchildren.

The targets of the Russian investigation already know Trump can and is considering pardoning them.

But a pardon of them — at least some of them — is a very different thing than an Arpaio pardon. That's because, for some of the crimes in question, in case of a pardon, Robert Mueller could just share the evidence with a state (usually NY) or NYC prosecutor for prosecution. It's possible that accepting a pardon for Trump or Kushner business related crimes could expose those businesses to lawsuit, and both family's businesses are pretty heavily in debt now.

Most importantly, a Paul Manafort or Mike Flynn pardon would deprive them of their ability to invoke the Fifth Amendment, meaning they could more easily be forced to testify against Trump, including to Congress.

Presidents implicated in crimes have used a variety of means to silence witnesses who could implicate them, but Poppy Bush's Cap Weinberger pardon — the most recent example of a President pardoning a witness who could incriminate him —

was not the primary thing that protected Poppy and Reagan, Congress' immunization of witnesses was. Thus far, most Republicans in Congress seem determined to avoid such assistance, and Trump's attacks on Mitch McConnell and Thom Tillis for not sufficiently protecting him probably have only exacerbated the problem.

I wrote a piece explaining why (in my opinion) George W Bush commuted Scooter Libby's sentence, but never pardoned him: it kept Libby silent without adding any personal risk. If Trump were competent, he'd be making similar calculations about how to keep witnesses out of prison without making it easier to incriminate him. But he's usually not competent, and so may fuck this up royally.

In any case, given that some Republicans (including both Arizona's Senators) have made lukewarm objections to the Arpaio pardon, I'd imagine any pardons of Russian witnesses would meet more opposition, particularly if those pardons came before the 2018 elections. Add in the fact that sleazeball Manafort has no purported service to point to to justify a pardon, as Trump cited with Arpaio (and would to justify a Flynn pardon). The backlash against Trump pardoning witnesses against him will likely be far worse than the already existing backlash here.

Pardoning Arpaio was easy. Pardoning Manafort and Flynn and Don Jr and Kushner and everyone else who can implicate the President will not be easy, neither legally nor politically. So don't confuse the two.

Meanwhile, Trump has just pardoned a man whose quarter century of abuse targeting people of color has made him the poster child of abuse, not just from a moral perspective, but (given the huge fines Maricopa has had to pay) from a governance perspective.

Like it or not, a lot of white people have a hard time seeing unjustified killings of people of color as the gross civil rights abuse it is,

because when cops cite fear or danger in individual cases, fearful white people – who themselves might shoot a black kid in haste in the name of self-defense – side with them. Those white people might easily treat Black Lives Matter as an annoyance blocking their commute on the freeway.

The same white people might find Joe Arpaio's tortuous camps for people of color objectionable, because those camps make the systemic aspect far more apparent. They're far more likely to do so, though, if this pardon is primarily seen as Trump's endorsement of systematic white supremacy rather than a test run to protect himself.

Moreover, white supremacy is something that will remain and must be fought even if Robert Mueller indicts Trump tomorrow. It was a key, if not the key, factor in Trump's win. We won't beat the next demagogue following in Trump's model if we don't make progress against white supremacy.

You can't do anything, personally, to help the Robert Mueller investigation. You can do something to fight white supremacy. And if that doesn't happen, then we'll face another Trump down the road, just as surely as Sarah Palin paved the way for Trump.

The Arpaio pardon is an abuse, horrifying, yet more evidence of how outrageous Trump is.

But it's also a teaching opportunity about white supremacy. Better to use it as such rather than cause for panic about the Russia investigation.

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