

AMY BERMAN JACKSON DISPUTES CLAIMS OF “EXCULPATORY” INFORMATION ON RUSSIA AND UKRAINE

For all its import showing the problems with Carter Page’s FISA application, I’ll eventually show the DOJ IG Report commits some of the same errors of inclusion and exclusion of important information that it accuses FBI of. Most importantly, it treats as *exculpatory* comments that George Papadopoulos made to Stephan Halper and another informant in fall 2016 when the FBI agents involved rightly (the record now confirms) suspected Papadopoulos’ answer was a cover story. Notably, Rosemary Collyer did not include the Papadopoulos comments in her letter to the government yesterday, suggesting she doesn’t think exclusion of those comments to be noteworthy.

Given Michael Horowitz’s focus on FBI’s withholding of exculpatory information (which they absolutely did, on a number of occasions), I find the focus of Amy Berman Jackson’s comments at Rick Gates’ sentencing hearing yesterday notable. (Thanks to CNN for culling these comments from the transcript.)

Some of the comments – including some focusing on Ukraine – seemed targeted at Republicans debating impeachment. For example, she emphasized that Gates’ information was not hearsay, and it implicated individuals associated with Ukraine and Russia.

Mr. Gates provided information – not hearsay, but information – based on his personal knowledge, meetings he attended, conversations in which he was a participant and information that was verified with contemporaneous records of

numerous, undeniable contacts and communications between individuals associated with the presidential campaign, primarily but not only Manafort, and individuals associated with Russia and Ukraine.

ABJ likely recognizes, as I have emphasized, that Paul Manafort's August 2, 2016 meeting with Konstantin Kilimnik and its aftermath – including his booking \$2.4 million from pro-Russian Ukrainian oligarchs eight days later – represents a clearcut case of Ukraine interfering in the 2016 election.

She also takes a shot at those claiming there was no basis for the investigation into Russia, and suggests that obstruction successfully prevented prosecutors from charging the underlying coordination.

Gates' debriefings, his multiple incriminatory bits of evidence on matters of grave and international importance are a reminder that there was an ample basis for the decision makers at the highest level of the United States Department of Justice – the United States Department of Justice of this administration – to authorize and pursue a law enforcement investigation into whether there was any coordination between the campaign and the known foreign interference in the election, as well as into whether there had been any attempt to obstruct that investigation, and to leave no stone unturned, no matter what the prosecutors determined they had evidence to prove at the end of that investigation.

And she emphasizes that pursuing this investigation was critical for election security.

Gates' information alone warranted,

indeed demanded, further investigation from the standpoint of our national security, the integrity of our elections and the enforcement of our criminal laws.

But there's a line in here that seems directed at the discussion surrounding the IG Report.

One cannot possibly maintain that this was all exculpatory information. It included firsthand information about confidential campaign polling data being transmitted at the direction of the head of the campaign to one of those individuals to be shared with Russian and Ukrainian oligarchs.

The investigation into whether Trump's campaign coordinated with Russia in its election interference started 3 days before Roger Stone spoke to Trump about how to optimize the WikiLeaks releases. It started 5 days before Trump's campaign manager met with Konstantin Kilimnik to explain how he planned to win the investigation, discussed carving up Ukraine to Russia's liking (an effort Manafort pursued for over a year afterwards), and how to get paid by his Ukrainian and Russian paymasters. It started 11 days before Manafort booked \$2.4 million in revenues – to be received in November – from his Ukrainian paymasters.

Again, ABJ has seen more of the underlying evidence from this investigation than anyone. And she sure seems to think that Bill Barr, Donald Trump, *and* Michael Horowitz are dismissing the seriousness of this investigation.