

IS BILL BARR PICKING A FIGHT WITH APPLE TO DISTRACT FROM THE FAILURE OF TRUMP'S SOCIAL MEDIA VETTING?

To some degree, recent disclosures about Ahmed Mohammed al-Shamrani's killing of three sailors in Pensacola make it seem like a mirror of the San Bernardino attack in 2015. A man, steeped in Islamic propaganda, used a moment of vulnerability to attack Americans. He is killed in the attack, but not before he destroys a phone. At first, DOJ asks Apple for help getting the easier things from the phone, such as the materials stored in the iCloud account. Then, after a delay makes the most obvious work-arounds impossible, DOJ asks Apple to hack the phone, which would thereby make not just that phone accessible to law enforcement, but all iPhones vulnerable to cops, authoritarian governments, and criminals.

There's even some reason to believe that the law enforcement officer grandstanding to use a terrorist attack as an opportunity to force Apple to weaken its products is lying both about what Apple and DOJ have respectively done, but about how certain it is that Apple is the only available option.

But investigators have been stymied in trying to access two key pieces of evidence – the gunman's iPhones. Standing before giant photographs of two severely damaged devices, the attorney general publicly urged Apple to act.

"So far, Apple has not given us any substantive assistance," Barr said, though aides later clarified that Apple had, in fact, given investigators access to cloud data linked to the gunman.

“This situation perfectly illustrates why it is critical that investigators be able to get access to digital evidence once they have obtained a court order.”

[snip]

In a lengthy statement, Apple disputed the attorney general’s description of its role, saying the company began responding within hours of the first FBI request on Dec. 6, and has turned over “many gigabytes” of data in the case.

“Our responses to their many requests since the attack have been timely, thorough and are ongoing,” the company said. “The FBI only notified us on January 6th that they needed additional assistance – a month after the attack occurred. . . . Early outreach is critical to accessing information and finding additional options.”

[snip]

Asked Monday whether the FBI’s technical experts on cellphones had agreed with the decision to send the letter pressing Apple to open the phones, Bowdich said he did not know.

An FBI spokesperson later said the bureau’s “technical experts – as well as those consulted outside of the organization – have played an integral role in this investigation. The consensus was reached, after all efforts to access the shooter’s phones had been unsuccessful, that the next step was to reach out to start a conversation with Apple.”

But the more important comparison may pertain to the role of social media in the attack.

Almost immediately after the 2015 attack, the FBI discovered that the woman involved in the attack, Tashfeen Malik, had pledged loyalty to

Abu Bakr al-Baghdadi just before the attack. That led Congress to suggest the Obama Administration hadn't vetted Malik's immigration processing closely enough, even though nothing in place at the time would have identified her past extremist writing.

In response, Customs and Border Patrol started laying the groundwork for a policy that seemed like dangerous overkill at the time, but that Trump nevertheless adopted: requiring visa applicants to list their social media handles so their social media activity can be vetted.

Somehow, in spite of that requirement, 17 Saudis in the US for military training were found to have jihadist material on their social media accounts, on top of al-Shamrani, and 15 of them had child porn on their social media accounts.

Barr said investigators had found evidence that 17 Saudis had through social media shared jihadist or anti-American material and 15 – including some of those who had shared anti-American material – were found to have had contact with or possessed child pornography.

It's one thing for CBP to have missed Malik's Facebook comments before they used social media to vet visa applicants.

It's an entirely different thing to institute social media vetting, but then somehow miss that 18 people admitted onto our military bases to be trained are anti-American or pro-jihadist. All the more so given that Trump's Muslim ban excluded Saudi Arabia – the origin of most of the 9/11 hijackers and other attempted terrorists since – even while focusing closely on Muslims from country without a history of terrorism against the US.

Plus, in spite of Barr's vague comments explaining how a "US Attorney" reviewed child porn engaged well beyond that which George Nader pled guilty to yesterday and decided that person

could return home to Saudi Arabia.

Barr said only one of those people had a “significant number” of [CP] images, and U.S. attorneys had reviewed each case and determined such people would not normally be charged with federal crimes. He said 21 cadets from Saudi Arabia had been disenrolled from their training and would be returning to the kingdom later Monday. Justice Department officials said 12 were from the Pensacola base, and nine were from other military bases.

[snip]

U.S. attorneys had independently determined the child porn did not warrant charges. Justice Department officials said the most significant case involved a cadet who possessed more than 100 images of child porn and had searched terms for child porn, according to his browser history – but even that fell below the normal threshold for a case deemed worthy of prosecution by a U.S. attorney’s office.

This seems to be part of a pattern that Ron Wyden has already complained about, the serial impunity of Saudi students who commit crimes in this country.

Normally, I oppose politicizing the response to terrorist attacks. You *can’t* prevent all terrorism, and the drive to do so has eroded our civil liberties.

But if you’re going to erode our civil liberties, then you better be damn sure you’re doing so for a reason. And it seems like CBP (and DOD) failed to ensure we weren’t inviting Saudis to our country to train them to be better terrorists against us in the future.

Barr wants this to be about Apple. First, however, he should be asked why the vetting Trump championed failed to work in this case.

If DOJ is going to complain that Apple isn't degrading security, it should first explain why the last policy it took that traded privacy for security failed.