

BILL BARR DIDN'T HEAR WHEN TRUMP ASKED, "RUSSIA ARE YOU LISTENING?"

One of the most surprising details in the book by former Mueller prosecutors, including Aaron Zebley, is that they added a contentious half paragraph the morning they finished the report.

For volume I, we discussed one last time whether the report was sufficiently clear about "coordination" with Russia. One of the sticking points: on July 27, 2016, Trump had made his "Russia, if you're listening" speech urging Russia to find Clinton's "missing" emails. Five hours later, the Russian GRU launched attacks into the Clinton team's personal email accounts. This appeared to be Russia's response to Trump's speech.

Bob had tied our work to established criminal standards. We did not view this "call and response"—Trump's publicly asking for an action and then Russia taking one—as sufficient for a criminal agreement or conspiracy. But without more explanation, we were concerned a reader might not understand why these July 27 events did not constitute "coordination." That morning, we added a paragraph to the introduction to volume I to make our reasoning clearer (emphasis added):

"Coordination" does not have a settled definition in federal criminal law. We understood coordination to require an agreement—tacit or express—between the Trump Campaign and the Russian government on election interference. That requires *more*

than the two parties taking actions that were informed by or responsive to the other's actions or interest. We applied the term coordination in that sense when stating that the investigation did not establish that Trump campaign coordinated with the Russian government in its election-interference activities.

There's more to this paragraph: it starts by explaining why prosecutors didn't assess Trump's actions in terms of "collusion," another term that's not a crime. Unlike "collusion," though, "coordination" was included in Rod Rosenstein's appointment order. As a prosecution and declination report, Mueller had to (and did) assess conduct in terms of law, not buzzwords or Rosenstein's ill-considered measures.

Rather than providing clarity, this paragraph made things worse, because those who had spent years talking about "collusion," incorrectly claimed the report had addressed it. No collusion!!! All the headlines blared. No collusion!!! Bill Barr keeps claiming.

In fact, as the book describes it, prosecutors added the coordination language, at least, not to expand the scope of the report (to include terms people used to describe it), but to address how they approached what the book calls "call-and-response:" when Russia and Trump's campaign worked in concert without formally agreeing to do so.

Of late, I've come to understand this "call-and-response" structure as Russia's effort to lock Trump in, ensuring a benefit to itself, in his compromise and America's polarization, whether or not he took the actions Russia would prefer.

There's a sad irony here. Prosecutors thought that the "are you listening" comment was so outrageous, they needed to explain why it was nevertheless not a crime, because of course must appear outrageous to everyone else.

But in reality, it didn't *appear* to their bosses at all. Both Rod Rosenstein and Bill Barr, for example, repeatedly excised a key part of Mueller's findings: that Russia was seeking to help Trump and Trump was happy to accept the help from a hostile foreign country.

Rod Rosenstein did so when announcing the Internet Research Agency troll indictment; Rosenstein even ad-libbed a claim that the indictment did not allege the information operation changed the outcome of the election.

One thing we noticed about Rosenstein's remarks was that he never stated that the defendants' actions were designed to help Trump and disparage Clinton, even though that was one of the core allegations of the indictment. And at the end of his remarks, he added something that wasn't in the indictment: "There is no allegation," he said, "that the charged conduct altered the outcome of the 2016 election."

Bill Barr didn't say Russia was trying to help Trump when he informed Congress of his spin of the results.

It omitted or misstated our analysis. In its discussion of volume I, the letter accurately stated our core charging decisions, but left out any reference to the intent of the Russian social media campaign to aid Trump in his bid for the White House, nor did it describe that same objective driving the hack-and-dump operation run by Russian military intelligence. There was no mention of the contacts between members of the Trump campaign and Russian officials and proxies. The letter also left out a core conclusion of volume I: that the "Russian government perceived it would benefit from a Trump presidency and worked to secure the outcome, and that the [Trump] Campaign expected it would

benefit electorally from information stolen and released through [Russian military] efforts.

And Barr did it again – refused to say Russia was trying to help Trump – when he gave a press conference with the release of the Report.

[A]s he had in his March 24 letter, he omitted any mention of Russian support for Trump’s election bid. He then described the Russian military intelligence operation to steal and dump Clinton campaign emails, but again omitted the Russian government’s purpose of harming Clinton’s election bid in order to aid Trump. Barr also did not mention our finding that the Trump campaign expected it would benefit electorally from information stolen and released through Russian military intelligence efforts.

He then described the Russian military intelligence operation to steal and dump Clinton campaign emails, but again omitted the Russian government’s purpose of harming Clinton’s election bid in order to aid Trump. Barr also did not mention our finding that the Trump campaign expected it would benefit electorally from information stolen and released through Russian military intelligence efforts.

To be sure, the prosecutors’ larger gripe was always how Barr dealt with volume II. Mueller’s team had decided they *would* not to make a prosecutorial decision, but Barr spun it as a choice that they *could* not make such a decision. (My instincts that they deliberately left this for Congress are confirmed by the book.)

But the book tracks how the people overseeing the investigation refused to admit something central to it: Russia wanted to help Trump, and

Trump invited that help.

“If it’s what you say I love it especially later in the summer.”

It’s an important observation given what came next. The entire Durham investigation was premised on ignoring Trump’s request for help. Two years later, for example, Barr insisted that the Russian investigation started from the Steele dossier (and astonishingly, Barr dismissed the possibility that Russia would want something in exchange for electing Trump).

Bill Barr and John Durham deliberately kept themselves ignorant of all that. Three years later, Barr continued to insist the investigation arose from the Steele dossier (and, insanely, said that since Russia didn’t need help doing a hack-and-leak, there was no reason to investigate Trump). Durham repeatedly tried to prevent those he charged from describing how Trump’s public comments (and their likely knowledge that another hacking attempted followed the comments) drove their concerns about Trump’s ties to Russia, even though as Marc Elias described, that was the reason they all started to focus on Russia.

13. By way of background, by the summer of 2016 it was public knowledge and my understanding that the DNC and at least one other democratic organization had been hacked by Russia—that is, Russia or entities working at its direction had infiltrated their servers and/or computers and stolen voluminous materials. I recall that materials stolen during the hack or hacks were being publicly disseminated in a manner that appeared to assist candidate Trump. I recall that around the time of the Democratic convention, candidate Trump publicly encouraged Russia to take action to release Secretary Clinton’s emails, [REDACTED]

Even at the end of his four year investigation, Durham claimed to have no idea that in response to Trump’s comments, Russia attempted to hack a new target.

Of course, Barr and Durham *had* to ignore Trump’s solicitation of a hack. If they hadn’t, they would never have had an excuse to launch the Durham probe, to pretend that investigating why

Trump's campaign got advance warning of the operation and then goaded it on made total sense. Barr and Durham *had* to pretend that none of this posed a risk to the country.

For a report for Bill Barr, Mueller added language trying to explain why they didn't treat Trump's successful solicitation of an attempted hack against his opponent as a crime.

But Barr, both before, in real time, and for years after, never even considered that a problem. Or couldn't, because if he did, he couldn't criminalize Hillary Clinton's victimization at the hand of Russia.