

WILLIAM BARR, U.S. ATTORNEY GENERAL: In a pros memo (ph) and then a declination memo--

HARRIS: You said it was your baby -- what did you mean by that?

BARR: It was my baby to -- to decide whether or not to disclose it to the public.

HARRIS: And who's decision was it. --who had the power to make the decision about whether or not the evidence was sufficient to make a determination of whether there had been an obstruction of justice?

BARR: Prosecution memo's go up to the supervisor, in this case it was the attorney general -- the deputy attorney general who decide on the final decision, and that is based on the memo as presented by the U.S. attorneys office.

HARRIS: I think you've made it clear that you've not looked at the evidence --

BARR: I've seen a lot of prosecutions --

HARRIS: We can move on. I think you have made it clear, sir --

(CROSSTALK)

BARR: --prosecution identification (ph) ---

HARRIS: -- You've made it clear sir that you've not looked at the evidence and we can move on. Will you agree to consult career DOJ ethics officials

about whether you're refusal from the 14 investigations that have been discussed by my colleagues as necessary?

BARR: I don't see any basis for it, I already consulted with them and --

HARRIS: You have consulted with them about the 14 other investigations?

BARR: About the Mueller case.

HARRIS: Have you consulted with the career DOJ ethics officials about the appropriateness of you being involved or recusing yourself from the 14 other investigations that have been referred out --

BARR: On what base?

HARRIS: Conflict of interest, clear conflict of interest.

BARR: What's my conflict of interest?

HARRIS: I think the American public has seen quite well that you are biased in this situation and you've not been objective and that would arguably be the conflict of interest.

BARR: You know, I haven't been the only decision maker here, now let's take the Deputy Attorney General, Rod Rosenstein, who was approved by this Senate 94 to 6 with specific discussion on the floor that he would be responsible for supervising the Russian investigation?

HARRIS: I'm glad you brought up that, that's a great topic ---

BARR: OK, he has 30 years of experience and we had a number of senior prosecutors in the department involved in this process, both career and non

career --

HARRIS: Yes, I've read the process, sir--

BARR: -- who all agree (ph) --

HARRIS: -- I have another question. And I'm glad you brought that subject up because I have a question about that. Earlier today in response to Senator Graham you said quote, that you consulted with Rosenstein constantly, unquote, with respect to the special counsel's investigation and report. But Deputy Attorney General Rosenstein is also a key witness in the firing of FBI director Comey. Did you consult with --

BARR: Well that's --

HARRIS: -- I'm not finished.

BARR: Yes.

HARRIS: Did you consult with DOJ ethics officials before you enlisted Rod Rosenstein to participate in a charging decision for an investigation the subject of which he is also a witness.

BARR: My understanding was that he had been cleared already to participate in it, but --

HARRIS: So you had consulted with them, and they cleared it?

BARR: No, I think they cleared it when he took over the investigation, that's my understanding.

HARRIS: Did you consult --you don't know whether he's been cleared of a conflict of interest?

BARR: He wouldn't be participating if there was a conflict of interest.

HARRIS: So you're saying that it did not need to be reviewed by the Career Ethics Officials in your office, does the Chairman think that's appropriate (ph)?

BARR: I believe -- I believe it was -- well I believe it was reviewed, and I would also point out --

HARRIS: And what was --

BARR: This seems to be a bit of a flip flop, because when the president supporters were challenged --

HARRIS: Sir, this flip flop, I think in this case --

BARR: And Rosenstein --

CONGRESS: Is that you're not answering the question directly.

BARR: What?

HARRIS: Did the Ethics Officials in your office -- in the Department of Justice, review the appropriateness of Rod Rosenstein being a part of making a charging decision on an investigation which he is also a witness in?

BARR: Yeah my -- so as I said, my understanding was he had been cleared and he had been cleared before I arrived.

HARRIS: In making a decision on the Mueller report.

BARR: Yes.

HARRIS: And the findings of whether or not the case would be charged on obstruction of justice. He had been cleared on that?

BARR: He was -- he was the acting Attorney General on the Mueller investigation.

HARRIS: Had he been cleared, to make --

BARR: He had been -- I am --

HARRIS: By your side, a decision --

BARR: I am informed -- I am informed that before I arrived he had been cleared by the FX (ph) Officials.

HARRIS: Of what?

BARR: Of serving as Acting Attorney General on the Mueller case.

HARRIS: How about making a charging decision on obstruction of justice, the underlying offenses --

BARR: That is what the (inaudible) -- HARRIS: Which include him as a witness.

BARR: That's what the acting Attorney General's job is.

HARRIS: To be a witness, and to make the decision about being a prosecutor?

BARR: Well, no but to make charging decisions.

HARRIS: I have nothing else, my time as run out.

BARR: Thank you.

GRAHAM: Senator -- let's see, we've got Senator Cruz. I'd like to do short second rounds, I've got to go to another hearing at 2:40. We're going to take four votes, but to my colleagues on the other side, I would like to do a very short second round and wrap it up. Oh, I'm sorry Senator Crapo, I apologize.

CRAPO: OK, thank you. Attorney General Barr, I know you've gone through almost everything that could've been asked so far today, and I'm going to go over a few things that you already talked about. But I appreciate your willingness to get in to it with me.

[14:35:00] First I want to talk about the letter of March 27, that's been talked about a lot from Mr. Mueller. First, could you tell me who released that letter to the public?

BARR: Who released it to whom?

CRAPO: Yes, I mean how did it get released? Was that a decision that you made to release that letter?

BARR: I think the Department provided it this morning.

CRAPO: OK, excuse me -- I mean to "The Washington Post" how did "The Washington Post" get the letter?

BARR: I don't know.

CRAPO: That's what I thought. So let's talk about the letter for a moment. You indicated that --

BARR: I assume "The Washington Post" got it from the Department of Justice.

CRAPO: Yes, well I think we need to find that out, but we can get in to that later -- if you're not aware then let's move on to other aspects of the issue. You indicated that you did not feel you needed to release as much as Mr. Mueller thought you needed to release, at the outset you gave a summary of the conclusions. And he apparently wanted to see a -- the summaries of each section that he had put together released, correct?

BARR: Yes. CRAPO: All right, could you go over again the reason why you responded to him when he asked you to release portions of the report before he released it in its entirety?

BARR: Yes. This was on the conversation on Thursday, the day I got his letter. And I said that I didn't want to put out -- it was already several days after we had received the report and I had put out the four page letter on Sunday.

And I said, "I don't want to put out summaries of the report that would trigger all kinds of frenzy about what was said in the summaries. And then when more information comes out it would recalibrate to that." And I said, "I just want to put it out one time, everything together." And I told him that was the game plan.

CRAPO: All right, and I just think it's important to point that out again, because there's been a lot of spin about the letter and what it was that was being requested, and what your response to that was.

BARR: Right.

CRAPO: I think it was important to help get that -- get out again and get clarified. The reason I asked who released the letter is because there have been a lot of releases of documents from the FBI that were basically leaks, and I was just curious as to whether that letter was a leak. I'm not asking

you that to (inaudible) --

BARR: I think what happened -- I mean, I hope my people (ph) jump me if I'm wrong on this, but I think the fact of the -- I mean, the information about Mueller's concerns were leaked, and I think some news organizations were starting to ask about that --

CRAPO: And so then the letter was released --

BARR: And that in that context, I think the letter was provided -- is that accurate?

CRAPO: So there were leaks, at least about the concerns in (ph) the conversations that you had had.

BARR: Yes, yes.

CRAPO: That gets me back to the broader question of leaks that I want to get in to now. And you've had a number of people -- Senators have asked you about the perceived bias at the FBI. I heard your responses earlier that you believe the culture at the FBI is strong and solid, and I agree with that

I do believe however, that it's been pretty clearly shown in a number of different ways that there are some individuals at the FBI at high levels, who in the past few years have not been holding up the standards of the FBI that the American people expect of them.

I'm sure you're familiar with the report of the DOJ's Inspector General Michael Horowitz where he looked at bias in the FBI, and in fact he found it. And he indicated in a hearing in this room before us, that he did in fact find that there was bias at the FBI. And -- but he said that he wasn't able to prove that the bias effected the employees work product.

Because -- in questions that I asked him he said I found that there was clearly bias, but in order to prove whether that effected the work output of those who were bias, I had to ask them whether it impacted it, and they of course said no -- and I didn't have other evidence to prove otherwise.



This gets back to a conversation you had earlier about whether the FBI's business, or whether his business was to prove a negative, or whether it was to find some actionable conduct.

My reason in going through this with you is that I want to get at what we can do -- well first of all whether you agree that there is a problem of bias in the FBI, in some parts or of some individuals of the FBI and whether you are undertaking activities to address that?

[14:40:00]

BARR: You know, I -- you mean political bias?

CRAPO: Yes. Whether there is political bias that is resulting in biased conduct by FBI agents --

BARR: I haven't -- I haven't seen that since I've been there, I think that Chris Wray the new Director has changed out the people who were there before, and brought in -- not brought in from outside, but promoted and developed a new leadership team that I think is doing a great job and I think he's focused on - on ensuring the bureau isn't biased and that any of the problems from before are addressed, so.

CRAPO: Do you believe that it's inappropriate conduct for an FBI employee to leak politically-sensitive information to the public for purposes of impacting political ...

BARR: Yes.

CRAPO: ...discussion?

BARR: Yes. And I think some leaks are - are for maybe for political purposes. I think probably more leaks are because people handling a case don't like what their superiors or supervisors are doing and they - and they leak it in order to control people up the chain.

CRAPO: And I understand you have some investigations into that type of conduct underway?

BARR: Yes.

CRAPO: Just another couple of quick questions. When did the DOJ and the FBI, if you know, when did the DOJ and the FBI know that the democratic party paid for Christopher Steele's dossier which then served as the foundation for the Carter-Page FISA application?

BARR: I don't know the answer to that. CRAPO: Are you investigating to determine that?

BARR: Yes.

CRAPO: And then lastly, did the Department of Justice, the FBI and other federal agencies engage in investigative activities before an official investigation was launched in July of 2016?

BARR: I don't know the answer to that but that's one of the...

CRAPO: You're also investigating that?

BARR: Yes.

CRAPO: All right, thank you very much Attorney General.

GRAHAM: Senator Cruz.

CRUZ: Thank you Mr. Chairman. General Barr, thank you for your testimony. And let me start by just saying thank you. You've had an extraordinarily successful legal career. You didn't have to take this job and you stepped forward and answered the call yet again knowing full well tha

you would be subjected to the kind of slanderous treatment, the Kavanaugh treatment that we have seen of Senators impugning your integrity and I for one am grateful that you answered that call and are leading the Department of Justice both with integrity and fidelity to law. That is what the nation rightly expects of our attorney general and I believe you are performing that very ably.

I think this hearing today has been quite revealing to anyone watching it although perhaps not for the reasons some of the democratic Senators intended. One thing that's revealing in the discussion and questions that came up, a word that occurred almost none at all is the word, "Russia." For two and a half years we heard democratic Senators going on and on and on about Russia collusion. We heard journalists going on and on and on about Russia collusion alleging among other things, some using extreme rhetoric calling the president a traitor.

We heard very little of that in this hearing today. Instead, the principle attack the democratic senators have marshaled upon you concerns this March 27 letter from Robert Mueller and it's an attack that I want people to understand just how revealing it is if this is their whole argument, they ain't got nothing.

So their argument is as follows and let me see if I understand it correctly. You initially when you received the Mueller report released to Congress and the public a four-page summary of the conclusions. Then on March 27, Mr. Mueller asked you to release an additional 19 pages, the introduction and summary that he had drafted. And indeed, in the letter what he says is, quote, "I am requesting that you provide these materials to Congress and authorize their public release at this time." And the reason he says it is that it is that to fully capture the context, nature and substance of the office's work and conclusion.

[14:45:00]

So you did not release those 19 pages at that time. Instead, a couple of weeks later you released 448 pages, the entire report which includes those 19 pages. Do I have that timeline correct?

BARR: That's right.

CRUZ: So their entire argument is General Barr, you suppressed the 19 pages that are entirely public that we have that we can read that they know every word of it and their complaint is it was delayed a few weeks and that was because of your decision not to release the report piecemeal but rather to release those 19 pages along with the entire 448 pages produced by the special counsel?

BARR: Yes.

CRUZ: If that is their argument, I have to say that is an exceptionally weak argument. Because if you're hiding something, I'll tell you right now General Barr, you're doing a very lousy job of hiding it because the thing that they're suggesting you hid you released to Congress and the American people and so if anyone wants to know what's in those 19 pages that are being so breathlessly, "Oh Bob Mueller said release the 19 pages." You did. You did it a couple of weeks later, but we can read every word of the 19 pages along with the full report. In your judgment was the Mueller report thorough?

BARR: Yes.

CRUZ: Did they expend enormous time, energy and resources investigating and producing that report?

BARR: Yes.

CRUZ: And the Mueller report concluded flat out on the question of Russian collusion the evidence did not support criminal charges.

BARR: That's right.

CRUZ: And indeed the Mueller report if I have these stats right was compiled by 19 lawyers who were on the team, approximately 40 FBI agents, intelligence analysts, forensic accountants and professional staff. The special counsel issued more than 2,800 subpoenas, nearly 500 search warrants, more than 230 orders for communication records, almost 50 orders authorizing the use of pen registers, 13 requests to foreign governments for evidence and interviewed approximately 500 witnesses. Is that correct?

BARR: That's right.

CRUZ: So we have investigated over and over and over again and the substance of the accusations that have been leveled at the president for two and a half years have magically disappeared. Instead the complaint is the 19 pages that we can all read that is entirely public could have been released a few weeks earlier, oh the calamity.

Let me shift to a different topic, a topic that has been addressed already quite a bit. I believe the Department of Justice under the Obama Administration was profoundly politicized and was weaponized to go after political opponents of the president. If that is the case, would you agree that politicizing the Department of Justice and weaponizing it to go after your political opponents is an abuse of power?

BARR: I think it's an abuse of power regardless of who does it.

CRUZ: Of course.

BARR: Yes.

CRUZ: To the best of your knowledge, when did surveillance of the Trump campaign begin?

BARR: The position today appears to be that it began in July, but I do not know the answer to the question.

CRUZ: It is an unusual thing, is it not, for the Department of Justice to be investigating a candidate for president, particularly a candidate from the opposing party of the -- of the party in power?

BARR: Yes.

CRUZ: Do we know if the Obama administration investigated any other candidates running for president?

BARR: I don't know.

CRUZ: Do we know if they wiretapped any -- any other...

(CROSSTALK)

BARR: Well, I'm sorry -- I guess they were investigating Hillary Clinton for the -- the email -- the email, for...

CRUZ: Do we know if there were wiretaps?

BARR: I don't know.

CRUZ: Do we know if there were efforts to send investigators in wearing a wire?

BARR: I don't know.

CRUZ: So General Barr, I would urge -- you have had remarkable transparency. You promised this committee you would with regard to the Mueller report. You promised this committee and the American people you would release the Mueller report publicly. You have released the report. Anyone can read it. It's right here.

I appreciate that transparency. I would ask you to bring the same transparency to this line of questioning about whether -- whether and the extent to which the previous administration politicized the Department of Justice, targeted their political rivals, and used law enforcement and intelligence assets to surveil them improperly. [14:50:00]

GRAHAM: Thank you. So that's the end of the first round. We have -- the votes I think at three, I think there are four votes (ph), but what I would like to do is just -- can you go for a few more minutes here? You're OK?

BARR: Yes.

GRAHAM: You're all right?

BARR: Yes (ph).

GRAHAM: OK, good. Senator Leahy, you -- you're next.

LEAHY: Thank you.

GRAHAM: We'll do three minute second rounds.

LEAHY: Senator Feinstein noted that she felt the FBI would be derelict in duty (ph) if it did not investigate after it learned from Australia -- about (ph) the Trump administration by Australia. The Trump campaign knew Russia had stolen Democratic emails before the victims knew (ph), and they were told the Russians could assist in a campaign with the -- with the stolen emails. The FBI was right to look into it. That resulted of course in (ph) 37 indictments.

But let me ask you, Mr. Barr, in your March 24th letter, you claimed that the lack of evidence of an underlying crime bears on whether the president had the requisite intent to commit obstruction of justice. Well, there are numerous reasons one (ph) -- somebody might interfere with investigations. Most critically, any interference (ph) may prevent the discovery of an underlying crime. And so interfering, you might not know if there's a crime.

But the Special Counsel did uncover evidence of underlying crimes here, including one that directly implicated the president. And then we learned due to the Special Counsel's investigation that Donald Trump is known as "Individual One" in the Southern District of New York, directing hush

payments as part of a criminal scheme to violate campaign finance laws. That matter was discovered by the Special Counsel, referred to the Southern District of New York. Is that correct?

BARR: Yes.

LEAHY: Thank you. And we have -- the Mueller report references a dozen ongoing investigations stemming from the Special Counsel's investigation. Will you commit that you will not interfere with those investigations?

BARR: I'm sorry, what was that? (ph)

LEAHY: Do you commit that you will not interfere with the dozen ongoing investigations?

BARR: I will supervise those investigations as attorney general.

LEAHY: Will you let them reach natural conclusions without interference from the White House? Let me put it that way then.

BARR: Yes.

LEAHY: Thank you.

BARR: Yeah - as I said when I was up for confirmation, part of my responsibility is to make sure there is no political interference in cases.

LEAHY: Well, and you testified a number of things and that's why I'm doublechecking you. In the Appropriations Committee, I asked you whether Mr. Mueller expressed any expectation or interest of leaving the obstruction decision to Congress and you testified he didn't say that to you - actually, what you said, "he didn't say that to me."



BARR: Right.

LEAHY: But then he has numerous references in his report to Congress playing a role in deciding whether the president committed obstruction of justice. So, I know you testified many times but ...

BARR: Well, I - I ...

LEAHY: ... That part was not correct (ph).

BARR: That's not - I think it is correct. I mean, I don't - he has not said that he conducted the investigation in order to turn it over to Congress. That would be very inappropriate. That's not what the Justice Department does.

LEAHY: He included numerous references (ph) report to Congress playing a role in it. Volume 2, page 8, inclusion (ph) that Congress may apply the obstruction (inaudible) president's corrupt exercise of the powers of office in accordance with our constitutional system of justice ...

BARR: Yeah, I don't think Bob Mueller was suggesting that the next step here was for him to turn this stuff over for - to Congress to act upon. That's not why we conduct grand jury investigations.

LEAHY: And President Trump - I am correct in my earlier statement, never allowed anybody to interview him directly, under oath. Is that correct?

BARR: I think that's correct.

LEAHY: Even though he said he was ready to testify. Thank you.

BARR: Could I?

GRAHAM: Sure.

BARR: A point you raised about the absence of an underlying crime. One point I was trying to make earlier is, the absence of an underlying crime doesn't necessarily mean that there would be other motives for obstruction, although it gets a little bit harder to prove and more speculative as to what those motives might be. But the point I was trying to make earlier is that in the situation of the president, who has constitutional authority to supervise proceedings, if in fact a proceeding was not well-founded, if it was a groundless proceeding, if it was based on false allegations, the president does not have to sit there, constitutionally, and allow it to run its course.

[14:55:00]

The president could terminate that proceeding and it would not be a corrupt intent because he was being falsely accused and he would be worried about the impact on his administration. That's important because most of the obstruction claims that are being made here, or episodes, do involve the exercise of the president's constitutional authority. And we now know that he was being falsely accused.

LEAHY: Well, I don't agree with that. But that's OK. Thank you (ph).

DURBIN: General Mueller (sic), I have two questions, if you don't mind. The Mueller - General Barr.

(LAUGHTER)

I have two questions. The Mueller report describes the reasons why the FBI opened a counter intelligence investigation in July 2016 and to Russian election interference. There have been many references to why they would do such a thing. By that date, the democratic national committee server had been hacked and Russians had been deemed responsible. Some of the stole emails had been released by WikiLeaks, a foreign government; the Australian government had told our FBI that Trump foreign policy aid, George Papadopoulos said he'd been contacted by a person on Russia's behalf offering to assist the Trump campaign by releasing information damaging to Hillary Clinton. That was all in the Mueller report.

Do you believe that it was an appropriate predicate for opening a counterintelligence investigation to determine whether Russia had targeted people in the Trump campaign to offer hacked information that might impact the presidential election?

BARR: I'd have to see exactly what the report was from Downer(ph) the Australian Downer(ph) and exactly what he quoted Papadopoulos as saying. But from what you just read, I'm not sure what the correlation was between the Russians having dirt and jumping to the conclusion that that suggested foreknowledge of the hacking.

DURBIN: According to Mr. Mueller in his report, this involvement of Trump foreign policy aid charged Papadopoulos had something to do with their conclusion. I'd like to ask a separate issue. It's been reported that on April 16th you received a waiver to participate in the investigation and litigation of the so called, One MBD Matter (ph). This is an investigation into a Malaysian company from alleged money laundering. According to news reports, as part of this investigation the U.S. attorney's office for the Eastern District of New York is investigating whether a Malaysian national illegally donated to the Trump Inaugural Committee with money taken from one MDB. You sought a waiver to participate in this matter even though your former law firm, Kirkland and Ellis, represents an entity involved in the investigation, namely Goldman Sachs.

How many waivers have you received to allow you to participate in matters or investigations involving Trump businesses, the Trump campaign or the Trump Inaugural Committee?

BARR: None.

DURBIN: You did seek a waiver in this case.

BARR: Actually the impetus as I recall and people should jump me if I'm wrong. It didn't come from me. I was asked to seek a waiver in this case.

DURBIN: Do you - do you see the problem if the issue is whether or not a money laundering operation in Malaysia is sending money to the Trump Inaugural Committee that as Attorney General of the United States you may not want to involve yourself in this?

BARR: Well no I don't - I don't because I was not involved with the Inaugural Committee.

DURBIN: Why would you seek a waiver then to participate in this?

BARR: The waiver was - I guess the conflict. It was not because of any relationship I had to the Inaugural Committee which I didn't.

DURBIN: No, it's to Goldman Sachs. Your former client at ...

BARR: No, it's Kirkland Ellis the law firm.

DURBIN: Right and their client Goldman Sachs. I just don't understand why you would touch that hot stove.

BARR: That's a good...

DURBIN: You sought the waiver. That's why I'm asking the question.

BARR: The attorney -- the criminal division action actually asked me to get a waiver because of the importance of this investigation overall. I was requested by the criminal division. I didn't seek it -- the impetus did not come from me.

DURBIN: Then who would that be that made the recommendation to you?

BARR: I am told it was the criminal division.

DURBIN: Mr. (inaudible)?

BARR: He was the head of the criminal division. But before -- apparently they discussed it with the career ethics official and they made the

recommendation.

DURBIN: Thank you. GRAHAM: Senator Whitehouse.

[15:00:00]