

ON SALLY YATES' STAND AND THE SESSION'S NOMINATION

There are two funny details about the reporting on the stand then Acting Attorney General Sally Yates took against Donald Trump's Muslim ban, which led to her firing. First, even in a story that explains the process by which Yates decided to order DOJ not to enforce the ban, there's little consideration of timing.

[0]n Friday, Yates heard a media report that Trump had signed an executive order temporarily barring entry into the United States for citizens of seven Muslim-majority countries and refugees from around the world.

No one from the White House had consulted with Yates or any other senior leaders in the Justice Department. Yates had to decide whether her lawyers could defend Trump's action in court. She did not even have a copy of the order, and her aides had to go online to find it.

"It was chaos," said a senior Justice Department official.

[snip]

As acting attorney general Sally Yates struggled to figure out how or whether to defend President Trump's immigration order last weekend – while protests erupted at airports nationwide, immigrants were denied entry to the United States and civil rights lawyers rushed to court – two events helped crystallize her decision.

The first was a television appearance by Trump on the Christian Broadcasting Network. In an interview, he said that Christians in the Middle East who were

persecuted should be given priority to move to the United States because they had been “horribly treated.”

The second was late Saturday night when former New York mayor Rudolph W. Giuliani appeared on Fox News. Giuliani said Trump wanted a “Muslim ban” and asked him to pull together a commission to show him “the right way to do it legally.”

“Those two things put the order in a very different light,” said a senior Justice Department official familiar with her decision. “Trump’s executive order appeared to be designed to make distinctions among different classes of people based on their religion.”

The article cites the CBN interview with Trump – the interview was done on Friday and clips started being released on Saturday – but doesn’t say when Yates saw the interview. But the Giuliani interview was later in the day on Saturday.

By that point, DOJ *already* was defending the EO, at least against motions for stays, with stories of DOJ attorneys getting calls late at night to contest ACLU and other civil liberties’ groups suits. Where was Yates during that period? Who was calling these attorneys and getting them to courtrooms?

Just as notably, though, such reports rarely raise how Yates’ actions on Monday that led to her firing might have *been designed* to impact Jeff Sessions’ confirmation process, even while everyone reported on the question Sessions posed to Yates during her own confirmation about refusing illegal orders. Yet that’s precisely what happened, as Democrats delayed the committee vote on Sessions a day, citing the Yates versus Sessions exchange and the Muslim ban.

None of that means Yates’ delayed decision

wasn't the right one to make, one made from a principled stand about the discriminatory impact of this ban. It just seems like a decision that also served to heighten the pressure on Sessions' own complicity in this bigotry.