

THE CARR CORRECTION AND THE BARR PSEUDO EXONERATION

Last week, BuzzFeed released part of a package of materials that Michael Cohen's lawyers provided to Congress in what appears a last minute bid to stay out of prison. While it still represents just Cohen's self-interested view (and not any of the corroborating information that Mueller's team surely has), it makes it clear why BuzzFeed felt justified in claiming that Trump "directed" Cohen to lie. The most shocking new detail is that after Cohen testified, Trump's lawyer (this package doesn't reveal whether it was Jay Sekulow or someone else) called Cohen to congratulate him.

Trump knew with certainty that Cohen continued to discuss the Moscow Trump Tower project well beyond January 31, 2016. Yet after the testimony, Cohen received a call from Trump's attorney, who congratulated him on the testimony – and said his "client" was happy with Cohen's testimony.

Still, a call from one lawyer in a joint defense agreement to someone else in the JDA – a call that by description Cohen didn't record – is not sufficient evidence to charge someone with suborning perjury.

Nevertheless, this new evidence may explain why BuzzFeed remains confident in its characterization that Trump directed Cohen to lie.

More importantly, it raises even more questions about why Peter Carr corrected the BuzzFeed characterization. As I noted at the time, someone from Rod Rosenstein's office called Mueller's office before they did make a correction. And the next day, Rudy Giuliani claimed credit for getting Mueller to correct

the story.

And here we are, not three months later, learning new details of how closely involved Trump's lawyers were in orchestrating Cohen's testimony while Attorney General Bill Barr (who had been appointed but not confirmed at the time of the story) withholds Mueller's own view of those documents, and just weeks after Barr and Rosenstein usurped the role of Congress to declare that the President's behavior – including efforts, however inadequately supported by admissible evidence, to suborn perjury – does not amount to criminal obstruction of justice.

The details behind Rosenstein's call and Rudy's victory lap are not yet public; they're certainly something the House Judiciary Committee should pursue.

But we can see how important that correction, unique in the history of the Mueller investigation, was to what has come since. The BuzzFeed story elicited the kinds of response that the long trajectory of seeing Trump direct lies should have, the recognition that that such actions might amount to impeachable offenses (which is different than Barr's judgment about obstruction of justice, even assuming many things didn't make that judgment suspect). By "correcting" a statement that seems utterly reasonable now, DOJ preserved the opportunity for Rosenstein and Barr to weigh in, however inappropriately.

Even at the time, it appeared that Rosenstein's (office's) intervention and Rudy's victory lap (to say nothing of the campaign rolled out against BuzzFeed, including CNN doing a hit piece against Jason Leopold) should have gotten more attention than the hyperparsing of a word that was readily explainable on its face. That's all the more clear now.

Had BuzzFeed not been corrected for what now seems an even more defensible word choice, Barr would not have had the opportunity to put his

thumb on the scale of injustice.

As I disclosed last July, I provided information to the FBI on issues related to the Mueller investigation, so I'm going to include disclosure statements on Mueller investigation posts from here on out. I will include the disclosure whether or not the stuff I shared with the FBI pertains to the subject of the post.