

# THE DESPERATION OF THE JEFFREY JENSEN INVESTIGATION ALREADY MADE CLEAR THAT JOHN DURHAM WON'T INDICT

Yesterday, a sick man called into Maria Bartiromo's show and wailed that his opponents had not been indicted.

Bartiromo: Mr. President. We now know from these documents that John Ratcliffe unveiled that it was Hilary Clinton's idea to tie you to Russia in some way. It was successful. The whole country was talking about it for two and a half years. But what comes next, Mr. President? We can have all of these documents, we can see exactly what happened but unless John [Durham] comes out with a report or indictments unless Bill Barr comes out with a – a – some kind of a ruling here, do you think this is resonating on the American people?

Trump: Unless Bill Barr indicts these people for crimes, the greatest political crime in the history of our country, then we're going to get little satisfaction unless I win and we'll just have to go, because I won't forget it. But these people should be indicted, this was the greatest political crime in the history of our country and that includes Obama and it includes Biden. These are people that spied on my campaign and we have everything. Now they say they have much more, OK? And I say, Bill, we've got plenty, you don't need any more. We've got so much, Maria, even – just take a look at the Comey

report, 78 pages of kill, done by Horowitz, and I have a lot of respect for Horowitz, and he said prosecute. He recommended prosecute and they didn't prosecute. I was – I couldn't believe it, but they didn't do it, because they said we have much bigger fish to fry. Well, that's OK, they indicted Flynn for lying and he didn't lie. They destroyed many lives, Roger Stone, over nothing. They destroyed lives. Look at Manafort, they sent in a black book, it was a phony black book, phony, they made up a black book of cash that he got from Ukraine or someplace and he didn't get any cash.

In the comment, he described speaking directly to Billy Barr about the urgency of prosecuting his political opponents.

In response to this attack, Billy Barr has started telling Republican members of Congress that John Durham isn't going to indict before the election.

Attorney General Bill Barr has begun telling top Republicans that the Justice Department's sweeping review into the origins of the Russia investigation will not be released before the election, a senior White House official and a congressional aide briefed on the conversations tell Axios.

**Why it matters:** Republicans had long hoped the report, led by U.S. Attorney John Durham, would be a bombshell containing revelations about what they allege were serious abuses by the Obama administration and intelligence community probing for connections between President Trump and Russia.

▪ *"This is the nightmare scenario. Essentially,*

*the year and a half of arguably the number one issue for the Republican base is virtually meaningless if this doesn't happen before the election," a GOP congressional aide told Axios.*

- *Barr has made clear that they should not expect any further indictments or a comprehensive report before Nov. 3, our sources say.*

Barr is excusing the delay by saying that Durham is only going to prosecute stuff he can win.

**What we're hearing:** Barr is communicating that Durham is taking his investigation extremely seriously and is focused on winning prosecutions.

- *According to one of the sources briefed on the conversations Barr said Durham is working in a deliberate and calculated fashion, and they need to be patient.*
- *The general sense of the talks, the source says, is that Durham is not preoccupied with completing his probe by a certain deadline for*

## *political purposes.*

This back and forth represents a fundamental misunderstanding of what must be going on.

The Durham investigation should not, at this point, be considered separately from the Jeffrey Jensen investigation attempting to invent a reason to blow up the Flynn prosecution. That's been true since Barr appointed Jensen because Durham hadn't yet discovered anything to dig Sidney Powell out of the hole she had dug Flynn. But it's especially true now that documents that would be central to the Durham inquiry are being leaked left and right – whether it's the report that the FBI knew that Igor Danchenko had been investigated (like Carter Page and Mike Flynn) as a possible Russian agent, or specific details about when the FBI obtained NSLs on Mike Flynn.

The investigative integrity of the Durham investigation has been shot beyond recovery.

Plus, the sheer desperation of the Jensen investigation raises real questions about whether a credible investigation could ever find anything that could sustain a prosecution, in any case. That's because:

- Jensen has repeatedly provided evidence that proves the opposite of what DOJ claims. For example, the Bill Priestap notes that DOJ claimed were a smoking gun actually show contemporaneous proof for the explanation that every single witness has offered for Mike Flynn's interview – that they needed to see whether Flynn would tell the truth about his calls with

Sergey Kisklyak. Plus, now there's a Priestap 302, one DOJ is hiding, that further corroborates that point. That evidence blows all the claims about the centrality of the Logan Act to interviewing Flynn out of the water, and it's already public.

- Jensen's investigators submitted altered exhibits to sustain easily disprovable claims. DOJ has claimed that this tampering with evidence was inadvertent – they simply forgot to take sticky notes off their files. That doesn't explain all the added dates, however, undermining their excuse. Moreover, if they didn't intentionally tamper with evidence, they're left claiming either that they haven't read the exhibits they've relied on thus far in this litigation, or that they're so fucking stupid that they don't realize they've already disproven their own assumptions about dates. Add in the way their "errors" got mainlined to the President via a lawyer meeting with Trump's

campaign lawyer, and the whole explanation gets so wobbly no prosecutor would want to proceed toward prosecution with problems that could so easily be discoverable (or already public).

- Jensen's investigators got star witness William Barnett to expose himself as a partisan willing to forget details to help Trump. Along with an analyst that was skeptical of the Flynn case (but who was moved off before the most damning evidence came in), Barnett would need to be the star witness in any case alleging impropriety in the investigation. But rather than hiding Barnett's testimony and protecting his credibility, Jensen made a desperate bid to get his claims on the record and make it public. And what the 302 actually shows – even without a subpoena of Barnett's personal ties and texts sent on FBI phones – is that in his interview, Barnett claimed not to understand the case (even though documents he filed show that he did,

contemporaneously), and either did not remember or deliberately suppressed key evidence (not least that Flynn told Kislyak that Trump had been informed of his calls). The 302 further showed Barnett presenting as "truth" of bias claims that instead show his willingness to make accusations about people he didn't work with, even going so far as to repackage his own dickish behavior as an attempt to discredit Jeannie Rhee. Finally, by hiding how many good things Barnett had to say about Brandon Van Grack, DOJ has made it clear that the only thing Barnett can be used for is to admit that he, too, believes Flynn lied, didn't have a problem with one of the key investigators in the case, and that his views held sway on the final Mueller Report. Had Durham managed this witness, Barnett might have been dynamite. Now, he would be, at best, an easily discredited partisan.

Jensen is working from the same evidence that Durham is. And what the Jensen investigation has shown is that it takes either willful ignorance or deliberate manipulation to spin this stuff as

damning. And in the process, Jensen has destroyed the viability of a witness and possibly other pieces of evidence that any credible prosecution would use.

DOJ might make one last bid in giving Trump what he wants, allegations against his adversaries, by using the initial response in the McCabe and Strzok lawsuits as a platform to make unsubstantiated attacks on them (DOJ got an extension in both cases, but one that is still before the election). But those attacks will crumble just like the Jeffrey Jensen case has, and do so in a way that may make it easier for McCabe and Strzok to get expansive discovery at the underlying actions of people like Barnett.

Billy Barr has largely shot his wad in drumming up accusations against Trump's critics. And along the way, he has proven how flimsy any such claims were in the first place.