

BILLY B AND JOHNNY D DRANK WHISKEY BEFORE THE SPECIAL COUNSEL APPOINTMENT

I'll have more to say about the NYT piece on the corrupt Durham investigation, though probably not till next week. But many people are commenting about how close Billy Barr was to Durham, as depicted by the way they sipped whiskey together.

While attorneys general overseeing politically sensitive inquiries tend to keep their distance from the investigators, Mr. Durham visited Mr. Barr in his office for at times weekly updates and consultations about his day-to-day work. They also sometimes dined and sipped Scotch together, people familiar with their work said.

In some ways, they were an odd match. Taciturn and media-averse, the goateed Mr. Durham had spent more than three decades as a prosecutor before Mr. Trump appointed him the U.S. attorney for Connecticut. Administrations of both parties had assigned him to investigate potential official wrongdoing, like allegations of corrupt ties between mafia informants and F.B.I. agents, and the C.I.A.'s torture of terrorism detainees and destruction of evidence.

By contrast, the vocal and domineering Mr. Barr has never prosecuted a case and is known for using his law enforcement platform to opine on culture-war issues and politics. He had effectively auditioned to be Mr. Trump's attorney general by asserting to a New York Times reporter that there was more basis to investigate Mrs. Clinton than Mr.

Trump's "so-called 'collusion'" with Russia, and by writing a memo suggesting a way to shield Mr. Trump from scrutiny for obstruction of justice.

But the two shared a worldview: They are both Catholic conservatives and Republicans, born two months apart in 1950. As a career federal prosecutor, Mr. Durham already revered the office of the attorney general, people who know him say. And as he was drawn into Mr. Barr's personal orbit, Mr. Durham came to embrace that particular attorney general's intense feelings about the Russia investigation.

It is true that Special Counsels, under the regulations, are supposed to have more independence from the Attorney General than this.

But keep in mind that 17 months of whiskey sipping happened before Barr made Durham Special Counsel.

And Barr intervened this closely in many of the other investigations he orchestrated. I wouldn't be surprised if he sipped whiskey with Scott Brady and Jeffrey Jensen, when they were conducting corrupt projects (accepting Russian-tied dirt on Joe Biden and undermining the Mike Flynn case, respectively) for him, as well.

The timing is significant in another way.

As NYT describes, when Billy and Johnny went to Italy chasing George Papadopoulos' conspiracy theories, the Italians instead shared alarming information about suspected financial crimes with the two men. Rather than providing the tip to a normal investigator, Barr instead had Durham chase it down.

On one of Mr. Barr and Mr. Durham's trips to Europe, according to people familiar with the matter, Italian officials – while denying any role in

setting off the Russia investigation – unexpectedly offered a potentially explosive tip linking Mr. Trump to certain suspected financial crimes.

Mr. Barr and Mr. Durham decided that the tip was too serious and credible to ignore. But rather than assign it to another prosecutor, Mr. Barr had Mr. Durham investigate the matter himself – giving him criminal prosecution powers for the first time – even though the possible wrongdoing by Mr. Trump did not fall squarely within Mr. Durham’s assignment to scrutinize the origins of the Russia inquiry, the people said.

Mr. Durham never filed charges, and it remains unclear what level of an investigation it was, what steps he took, what he learned and whether anyone at the White House ever found out. The extraordinary fact that Mr. Durham opened a criminal investigation that included scrutinizing Mr. Trump has remained secret.

But in October 2019, a garbled echo became public. **The Times** reported that Mr. Durham’s administrative review of the Russia inquiry had evolved to include a criminal investigation, while saying it was not clear what the suspected crime was. Citing their own sources, **many other news outlets** confirmed the development.

The news reports, however, were all framed around the erroneous assumption that the criminal investigation must mean Mr. Durham had found evidence of potential crimes by officials involved in the Russia inquiry. Mr. Barr, who weighed in publicly about the Durham inquiry at regular intervals in ways that advanced a pro-Trump narrative, chose in this instance not to clarify what was really happening.

By description, this tip too appears to precede the time when Durham was appointed Special Counsel. That's important because, with every other investigation into Trump, Barr attempted to ensure it was shut down during the summer of 2020. If Barr succeeded here, too, then it would mean that it would not fall into the scope of Durham's Special Counsel activities.

That's important, because Durham is, by regulation, required to write a report about his prosecution and declination decisions. If Durham wants to see his report made public, we should fairly expect to see this criminal tip on Trump included.

There are a lot of questions about why Durham remains at DOJ. But one potential reason is that Lisa Monaco believes his report could be a worthwhile thing: basically a long list of conspiracy theories that Barr had Durham chase that turned out to be conspiracy theories.

And this story may put some pressure on DOJ to make sure that happens.