

Stark Contrasts between the Mueller Report and Attorney General Barr's Summary

The actual text of Special Counsel Robert Mueller's report tells a very different story than what was in summaries produced by Attorney General William Barr in letters to Congress and in a press conference prior to the report's release. A comparison of the report and Barr's statements shows that Barr downplayed Mueller's findings about Russian contacts with Trump campaign associates as well as the damning evidence of the president's obstruction of justice that Mueller assembled. Following are examples of this gap.

1. Whether the President Is Exonerated on Obstruction of Justice

Special Counsel Report: The report makes the statement: “[I]f we had confidence after a thorough investigation of the facts that the President clearly did not commit obstruction of justice, we would so state. Based on the facts and the applicable legal standards, we are unable to reach that judgment.” It further states, “The evidence we obtained about the President's actions and intent presents difficult issues that prevent us from conclusively determining that no criminal conduct occurred. Accordingly, while this report does not conclude that the President committed a crime, it also does not exonerate him.” ([Report](#) on the Investigation into Russian Interference in the 2016 Election, Vol. 2, page 2 (March 2019) (“Special Counsel Report”))

Barr Statements: The Attorney General omitted the Special Counsel office's allusion to their lack of confidence in exonerating evidence as well as repeated findings that there was substantial evidence supporting the key elements of obstruction. Instead, Barr offered his own conclusions about the obstruction case against the president, stating, “I have concluded that the evidence developed during the Special Counsel's investigation is not sufficient to establish that the President committed an obstruction-of-justice offense.” ([Letter](#) from Attorney General Bill Barr to House and Senate Judiciary Committee leaders, p. 3 (March 24, 2019) (the “Barr Letter”))

2. How to Interpret the Evidence of President Trump's Obstruction of Justice

Special Counsel Report: The report presents facts regarding eleven episodes of potentially obstructive conduct and analyzes whether, in each case, the facts established the three legal elements of an obstruction charge: (1) an obstructive act; (2) nexus to a pending or contemplated official proceeding; and (3) corrupt intent. (Special Counsel Report, Vol. 2, p. 15) In many instances, the report details substantial evidence that each of these elements were established. (Id., Vol. 2, §§ II.B, II.D, II.E, II.F, II.H, II.I, II.J, II.K.) In addition, the report emphasizes that “it is important to view the President's pattern of conduct as a whole” including “multiple acts by the President that were capable

of exerting undue influence over law enforcement investigations, including the Russian-interference and obstruction investigations.” (*Id.* p. 157)

Barr Statements: Barr’s summary gave the impression that Mueller equivocated on obstruction by laying out the evidence on “both sides of the question.” Barr then went on to present his view that “the report identifies no actions that . . . constitute obstructive conduct, had a nexus to a pending or contemplated proceeding, and were done with corrupt intent, each of which, under the Department’s principles of federal prosecution guiding charging decisions, would need to be proven beyond a reasonable doubt to establish an obstruction-of-justice offense.” (Barr Letter, p. 3)

3. Role of the DOJ Policy on Indicting a Sitting President

Special Counsel Report: At the top of the obstruction of justice report, the Special Counsel’s office’s described considerations guiding its obstruction of justice review, highlighting as the first item the fact that the Department of Justice has a policy against indicting a sitting president. (Special Counsel Report, Vol. 2, p. 1)

Barr Statements: The Attorney General omitted any reference to the role the indictment policy played for the Special Counsel in his obstruction of justice inquiry. Instead, he said, the fact that the Special Counsel did not draw legal conclusions “leaves it to the Attorney General to determine whether the conduct described in the report constitutes a crime,” and that he and Deputy Attorney General Rod Rosenstein concluded that “the evidence developed during the Special Counsel’s investigation is not sufficient to establish that the President committed an obstruction-of-justice offense.” He further noted, “Our determination was made without regard to, and is not based on, the constitutional considerations that surround the indictment and criminal prosecution of a sitting president.” (Barr Letter, p. 3)

4. Whether the White House Cooperated with the Mueller Inquiry

Special Counsel Report: The report stated that because core obstruction-of-justice issues turn on actions and intent, the Special Counsel’s office “sought a voluntary interview with the President,” and he declined. It further noted that the President refused to provide written answers to questions “on obstruction topics” or “events during the transition.” (Special Counsel Report, Vol. 2, p. 13) According to the report, regarding certain questions on the Trump Tower Moscow project, the President “did not answer those questions about Trump Tower Moscow directly.” (*Id.*, Vol. 2, pp. 149-50)

Barr Statements: “The White House fully cooperated with the Special Counsel’s investigation,” and “the President took no act that in fact deprived the Special Counsel of the documents and witnesses necessary to complete his investigation.” (Barr [Press Conference](#) (April 17, 2019))

5. Trump Associate Contacts with Russians

Special Counsel Report: At the outset of the section of the report on Russian contacts with Trump associates, the report states: “Although the investigation established that the Russian government perceived it would benefit from a Trump presidency and worked to secure that outcome, and that the Campaign expected it would benefit electorally from information stolen and released through Russian efforts," the investigation did not establish that members of the Trump Campaign conspired or coordinated with the Russian government in its election interference activities. It also specifically states that the inquiry applied the framework of conspiracy law, not “collusion,” in evaluating these contacts, since collusion is not a legal concept, and expressly underscores, “A statement that the investigation did not establish particular facts does not mean there was no evidence of those facts.” (Special Counsel Report, Vol. 1, p. 2)

Barr Statements: The Attorney General repeatedly asserted that the Special Counsel found “no collusion” with Russia. He also reiterated the report’s statement that the investigation did not establish conspiracy or coordination but omitted any reference to the Special Counsel’s finding that the campaign had an expectation of benefit from the Russian email hack and release. (Barr Press Conference (April 17, 2019))