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OPINION | POTOMAC WATCH

# When Justice Is Partial

Mueller is determined to sniff out any wrongdoing he can find—on one side.



By  
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U.S.  
Attorney  
Robert  
Khuzami  
took a  
few  
moments  
in his  
Tuesday

Robert Mueller testifies on Capitol Hill, June 13, 2013. PHOTO: YURI GRIPAS/REUTERS

statement about Michael Cohen’s plea deal to sing neutrality’s praise: “His day of reckoning serves as a reminder that we are a nation of laws, with one set of rules that applies equally to everyone.”

Noble words, and they used to mean something. But a disparity of justice is at the heart of our current crisis of faith in institutions. Americans aren’t outraged that the Federal Bureau of Investigation felt obliged to investigate allegations leveled at campaigns, or that a special counsel is looking at Russian electoral interference. They are instead furious that Lady Justice seems to have it in for only one side.

The country has watched the FBI treat one presidential campaign with kid gloves, the other with informants, warrants and eavesdropping. They’ve seen the Justice Department resist all efforts at accountability, even as it fails to hold its own accountable. And don’t get them started on the one-sided media.

And they are now witnessing unequal treatment in special counsel Robert Mueller’s probe. Yes, the former FBI director deserves credit for smoking out the Russian trolls who interfered in 2016. And one can argue he is obliged to pursue any evidence of criminal acts, even those unrelated to Russia. But what cannot be justified is the one-sided nature of his probe.

Consider Mr. Cohen, the former Trump lawyer who this week pleaded guilty to eight felony charges. Six related to his personal business dealings; the other two involved campaign-finance violations arising from payments to women claiming affairs with Donald Trump. The criminal prosecution of campaign-finance offenses is exceptionally rare (most charges are civil), but let's take Mr. Khuzami's word for it when he says Mr. Cohen's crimes are "particularly significant" because he's a lawyer who should know better, and also because the payments were for the purpose of "influencing an election" and undermining its "integrity."

If there is only "one set of rules," where is Mr. Mueller's referral of a case against Hillary for America? Federal law requires campaigns to disclose the recipient and purpose of any payments. The Clinton campaign paid Fusion GPS to compile a dossier against Mr. Trump, a document that became the basis of the Russia narrative Mr. Mueller now investigates. But the campaign funneled the money to law firm Perkins Coie, which in turn paid Fusion. The campaign falsely described the money as payment for "legal services." The Democratic National Committee did the same. A Perkins Coie spokesperson has claimed that neither the Clinton campaign nor the DNC was aware that Fusion GPS had been hired to conduct the research, and maybe so. But a lot of lawyers here seemed to have been ignoring a clear statute, presumably with the intent of influencing an election.

Prosecutions under the Foreign Agent Registration Act (FARA) are also exceptionally rare, though Mr. Mueller is getting media kudos for hammering the likes of Paul Manafort and Rick Gates for failing to register as lobbyists for foreign entities. The law is the law.

But under this standard, where are the charges against the principals of Fusion GPS, who Sen. Chuck Grassley has said look to have been lobbying on behalf of powerful Russians against a U.S. sanctions law, with its payment again funneled through a law firm? This was a sideline to its dossier work, but Mr. Mueller usually has no issue with sideline charges.

Or what about an evenhanded look at dossier author Christopher Steele? FARA also requires foreigners to register if they act on behalf of a foreign principal. Recently disclosed emails from senior Justice Department official Bruce Ohr show the British Mr. Steele pleading the case to the Justice Department on behalf of a Russian oligarch, Oleg Deripaska.

Of the seven U.S. citizens Mr. Mueller has charged, five have been accused of (among other things) making false statements to federal officials. But there have been no charges against the partisans who made repeated abjectly false claims to the FBI and Justice Department about actions of their political opponents. There have been no charges against those who leaked classified information, including the unprecedented release of an unmasked conversation between former national security adviser Mike Flynn and a Russian ambassador. Nothing.

Some of these charges might not stand up in court, but that's beside the point. Plenty of lawyers would poke holes in the campaign-finance charges against Cohen, or the "lying" charges against Mr. Flynn. Special counsels wield immense power; the mere threat of a charge provokes plea deals. It's

the focus that matters.

Prosecutors can claim all they want that they are applying the law equally, but if they only apply it to half the suspects, justice is not served. Mr. Mueller seems blind to the national need for—the basic expectation of—a thorough look into all parties. That omission is fundamentally undermining any legitimacy in his findings. Lady Justice does not wear a blindfold over only one eye.

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