

# LINDSEY HALLIGAN EVEN FAILED FAILING

Remember how I argued that DOJ might actually be trying to get no-billed in the Jim Comey case? I argued that if the case were charged, it could put Todd Blanche, especially, in a really awkward position.

These leaks make it far more likely that Lindsey the Insurance Lawyer will get no-billed (meaning they'[d] vote against indicting Comey). And that may be the point. Indeed, her law license may be among a handful that get saved in the process.

Consider how this would look to Todd Blanche.

Blanche may not have noticed that DC added Ken Chesebro yesterday to the growing list of former Trump lawyers who've lost their license to practice law. But he's no doubt aware of how common it is for Trump lawyers to lose their law licenses.

Also yesterday, the judge presiding over Luigi Mangione's case, Margaret Garnett, gave DOJ one last warning about inappropriate public comments made about the accused killer, including by Blanche's own Chief of Staff, before she starts sanctioning DOJ.



In her order, Garnett specifically directed Todd Blanche to clean all this up.

[snip]

Blanche's personal exposure in the LaMonica McIver case goes far deeper. He is at once:

- *The official who ordered DHS personnel to arrest Ras Baraka even after he had left Delaney Hall property, creating the physical confrontation in which McIver was charged, and as such, part of the law enforcement team and implicated in a potentially unlawful*

*arrest*

- *The person whose office conducted the prosecutorial review previously done by career prosecutors in Public Integrity Division after that got shut down*
- *Because Alina Habba continues to play US Attorney after being unlawfully retained, the person in charge of the prosecution*

If McIver's own selective and vindictive prosecution claim gains any traction, we may learn far more about Blanche's effort to criminalize a co-equal branch of government for conducting lawful oversight.

According to a recent CNN story, there's good reason to believe I was right! DOJ gave her no support to get the indictment, but the FBI prepared her just enough to get the job done.

DOJ headquarters declined to provide lawyers to assist Halligan, and FBI agents and lawyers working to prepare her were denied their request for a para-legal professional to assist in the presentation, according to two people familiar with the matter.

"Lindsey was set up to fail," one of the sources familiar with the discussions said. "She was the lamb sent to slaughter."

[snip]

Last Tuesday, Halligan began a crash

course to prepare. Justice officials told her that the deputy attorney general's office didn't have lawyers to help her, and that it was against federal rules of criminal procedure for one of the attorneys from Justice headquarters to be in the grand jury room, one source familiar with the discussions said.

An administration official pushed back on the sources' contention that Halligan did not have help from the Justice headquarters. Officials argued that Halligan was in touch personally with Deputy Attorney General Todd Blanche multiple times, including visiting the Department of Justice for meetings during the week leading up to her presentation, even if she lacked support from lower level attorneys with more experience in the grand jury room in Alexandria. The source added that Halligan and Blanche spoke after the indictment was issued.

Blanche and Attorney General Pam Bondi had earlier expressed qualms about the case, citing concerns raised in a memo produced by prosecutors who had spent months on the case, according to people familiar with the matter.

Instead, Halligan spent hours preparing with a group that included FBI attorneys and the agents who had led the investigation, the sources said.

Halligan participated in a number of "practice runs" and spent hours going through the exhibits in preparation, the sources said.

[snip]

But that Halligan succeeded in getting two counts handed up surprised Justice officials, who nonetheless immediately sought to celebrate.

Shortly after Halligan emerged from the courtroom Attorney General Pam Bondi issued a statement on X, declaring: “No one is above the law.”

In an administration where being quick to post on social media is prized, the move irritated Halligan and FBI officials who felt that top Justice officials were seeming to take credit for an indictment some believed they had sought to doom, according to sources briefed on the matter.

Well, Lindsey Halligan managed to convince barely enough grand jurors to approve the case to get an indictment. Which may be the worst of all worlds for DOJ, because however DOJ tried to insulate themselves, they failed the primary task but also made it easier to dig into the FBI (where Kash Patel lurks).

Meanwhile, Michael Feinberg provides some insight onto who the FBI personnel were who got her across the line. One, he describes as “John Durham’s factotum and enforcer,” a reference to Jack Eckenrode, whom Devlin Barrett told us – without understanding the egregious conflicts involved – was involved in the WDVA investigation. (Feinberg confirms this by pointing to the Eckenrode quote in this article.)

I learned the identities of the two primary investigators who developed the case against Comey.

One of the persons was unsurprising: A former special agent in charge, who has freelanced in a number of overly politicized matters since retiring—he served as John Durham’s factotum and enforcer, is now apparently back at the Hoover Building working in a similar capacity for Patel.

Things are about to get interesting, given that

Eckenrode worked with Pat Fitzgerald on the Scooter Libby case. And that's on top of the fact that Eckenrode kept chasing Russian disinformation for two years after he had reason to understand it was fabricated.

We can add Eckenrode to the list of people who could be criminally implicated by this investigation!

The other investigator is someone Feinberg believes is a really good investigator, leading him to wonder how the fuck someone could be involved in this.

It was the second name that completely undermined my composure. I used to supervise this agent, and, at times, I would like to believe I served somewhat as a mentor to him. We overlapped on the squad I led for only a year or so, but it was not uncommon for him to sporadically reach out when he faced a career decision and needed counsel. He was an outstanding investigator, a natural leader, and someone whom I wanted to see rise in the organization; it goes without saying that I would make time for him when he needed advice.

These two identities were not provided by any friends remaining in the FBI or the Justice Department—they would have known of the latter relationship and attempted to cushion the blow—but through a journalist's tweet innocently forwarded by a Lawfare colleague. (I'm not providing a link to the post; the point of this article is not to name and shame someone but, rather, to use the situation as illustrative of how otherwise good people at the FBI, either voluntarily or by force, are being corrupted by its current leadership and overt weaponization.) Seeing my former agent's name, though—once the shock subsided—made me think about the erosion of the rule of law once again not in

terms of political theory or legal philosophy, but on a more human level: How does a special agent become involved in such a blatantly politically motivated revenge operation?

It hints at a really interesting possibility: that Lindsey the Insurance Lawyer relied on evidence in EDVA *from the investigation at WDVA* (basically a theory that Durham materials were put in burn bags to protect Comey rather than to hide Eckenrode's own incompetence and reliance on Russian disinformation) that would present evidentiary problems, such as relevance problems, that an experienced prosecutor would know to avoid, but might convince jurors. That's precisely what happened to John Durham's prosecutions, and *there*, there were experienced prosecutors involved. They proceeded by wishcasting, just assuming they'd get evidence that was obviously inadmissible admitted at trial.

Here, there's no experienced prosecutor to weigh those issues.

In any case, the statute of limitations on the charges have expired now, so we shall see whether and if so how Comey challenges Halligan's appointment as a US Attorney. I mentioned the reason why this is probably true here, but Ed Whelan lays out the reasons she probably is only play-acting as US Attorney here.

4. As I explained in my initial post, the defect in a purported appointment of Halligan under section 546 arises from the fact that Erik Siebert had already served a full 120-day term as AG-appointed U.S. Attorney. Section 546 is best read to mean that the Attorney General cannot make a second interim appointment under section 546 after the first interim appointment has expired. Instead, the authority to make an interim appointment then lies with the

district court. This has been DOJ's own longstanding position, set forth in a 1986 Office of Legal Counsel opinion by then-deputy assistant attorney general Samuel Alito.

It turns out that (contrary to what I thought on Friday) Alito's OLC opinion is **publicly available**. Here are some key excerpts (underlining added):

The statutory plan [for section 546] discloses a Congressional purpose that after the expiration of the 120-day period further appointments are to be made by the court rather than by the Attorney General...

Thus, it would appear that Congress intended to confer on the Attorney General only the power to make one interim appointment; a subsequent interim appointment would have to be made by the district court. At most, it could be said that the district court has the primary authority to make subsequent interim appointments, and that the Attorney General may make such appointments only if the district court refuses to make such appointments, or fails to do so within a reasonable period.

In a footnote, Alito explains that Congress has constitutional authority to "place restraints on a statutory authority to make interim appointments."

But even if they have, knowing there's an investigation at WDVA with presumably less inexperienced prosecutors involved, it might be better to blow this investigation out of the



water via other means, by using the publicity and Halligan's screw-ups to getting it deemed vindictive.