LINDSEY HALLIGAN LECTURES SOMEONE ELSE ABOUT CONFLICTS

A filing in the Jim Comey case bearing the name of Lindsey Halligan claims that it is very important to disclose conflicts as early as possible.

> 1 "[Bo]th the Sixth Amendment and the Virginia Rules of Professional Conduct invite, indeed *compel*, prosecutors to alert a trial court to a defense attorney's potential or actual conflict." United States v. Cortez, 205 F. Supp. 3d 768, 775 (E.D. Va. 2016) (emphasis added) (Ellis, J.); see also United States v. Howard, 115 F.3d 1151, 1155 (4th Cir. 1997) (Wilkinson, C.J.) (noting that a district court "has an obligation to foresee problems over representation that might arise at trial and head them off beforehand").

Only, the filing is not disclosing conflicts *that Halligan*, the Trump personal defense attorney turned unlawfully appointed US Attorney who didn't identify her client at the arraignment, might have.

Rather, in a bid to accelerate consideration of the loaner prosecutors' filter request (which I wrote about here), it insinuates that Pat Fitzgerald has a possible conflict on this case. As it describes, some of the communications that (it all but confirms) Dan Richman designated as privileged back in 2019 include Fitzgerald.

> Relevant to this motion, the attorney has informed the government that the quarantined evidence contains communications between the defendant and several attorneys. The current lead defense counsel appears to be a party to some of these communications.

To turn that into a potential conflict, the loaner prosecutors (and probably also James Hayes, who again shows as the author of the document, but who has not filed a notice of appearance in the case) wildly misrepresent the DOJ IG Report on Jim Comey's retention of the memos he wrote memorializing his conversations with Trump.

> [T]he defendant used current lead defense counsel to improperly disclose classified information.2
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> 2 See U.S. Department of Justice (DOJ) Office of the Inspector General (OIG), Report of Investigation of Former Federal Bureau of Investigation Director James Comey's Disclosure of Sensitive Investigative Information and Handling of Certain Memoranda, Oversight and Review Division Report 19-02, (August 2019), (located at https://web.archive.org/web/20250818022240/https://oig.justice.gov/reports/2019/o1902.pdf, last accessed October 19, 2025).

(They provide a Wayback Machine link, because Trump killed the DOJ IG site in his bid to kill the main Inspector General organization.)

While the IG Report describes that Comey sent Fitzgerald four of the memos — which Comey believed to be unclassified — he sent the memo that Richman shared for this NYT story separately, meaning the report does *not* substantiate the claim that Fitzgerald was in the loop on that story.

> May 14, 2017
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> > Comey sends scanned copies of Memos 2, 4, 6, and 7 from his personal email account to the personal email account of one of his attorneys, Patrick Fitzgerald. Before sending, Comey redacts the second paragraph from Memo 7 involving foreign

> affairs because Comey deems it irrelevant. On May 17 Fitzgerald forwards these four Memos to Comey's other attorneys, David Kelley and Richman.
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> May 16, 2017
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> Comey sends a digital photograph of Memo 4 (describing the meeting in which Comey wrote that President Trump made the statement about "letting Flynn go") to Richman via text message from Comey's personal phone. Comey asks Richman to share the contents, but not the Memo itself, with a specific reporter for The New York Times. Comey's stated purpose is to cause the appointment of a Special Counsel to ensure that any tape recordings that may exist of his conversations with President Trump are not destroyed. Richman conveys the substance of Memo 4 to the reporter. The New York Times publishes an article entitled "Comey Memo Says Trump Asked Him to End Flynn Investigation."
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> [snip]
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> As described in this section, on May 14, 2017, Comey transmitted copies of Memos 2, 4, and 6, and a partially redacted copy of Memo 7 to Fitzgerald, who was one of Comey's personal attorneys. Comey told the OIG he thought of these Memos as his "recollection recorded," like a diary or personal notes. Comey also said he believed "there's nothing classified in here," and so he thought he could share them with his personal attorneys.

And even using the FBI classification review of the memos he shared rather than Comey's own review (he was an Original Classification

Authority), he shared just six words, classified "Confidential" with his attorneys, and Richman didn't share *that information* with Mike Schmidt.

> FBI conducts a classification review of Comey's Memos. The FBI determines that Comey correctly classified Memo 1 (which Comey did not share with anyone outside the FBI); that Memos 4, 5, and 6 are unclassified but "FOUO"; and that portions of Memos 2, 3, and 7 are classified, as follows:
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> Memo 2: Six words from a statement by President Trump comparing the relative importance of returning telephone calls from three countries, one of which the Memo notes the President mentioned twice, are classified as "CONFIDENTIAL//NOFORN." Comey did not redact this information before sharing Memo 2 with his attorneys.
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> Memo 3: Information about sources, methods, investigative activity, and foreign relations is classified as "SECRET//NOFORN." Comey did not share Memo 3 with anyone outside the FBI.
>
> Memo 7: An assessment of a foreign leader by President Trump and discussion of foreign relations is classified as "CONFIDENTIAL//NOFORN." Comey redacted this paragraph before he sent Memo 7 to his attorneys.

As Comey's response notes, in a subsequent FOIA, a judge determined just one word was Confidential.

> 6 The portion of the memorandum the review team determined should be classified as "Confidential" concerned the President's reference to then National Security Advisor Michael Flynn's questionable judgment in not having notified the President sooner of a call from the leader of a particular

> country. (Report at 44). In that context, President Trump compared certain countries to a smaller country and the upclassification treated the name of a smaller country as classified for fear of offending that country. (Id. at 44-45). Mr. Comey's reaction to the upclassification was: "Are you guys kidding me?" (Id. at 47). A federal court in unrelated litigation brought under the Freedom of Information Act ("FOIA") ultimately rejected all but one of the subsequent classifications. (Id. at 3 n.4; 47 n.78; 58 n.100 (citing Cable News Network, Inc., v. FBI, 384 F. Supp. 3d 19, 25-26, 36, 38 (D.D.C. 2019))). The classification of the memorandum has been addressed in subsequent litigation and the single word that remains "CONFIDENTIAL" is the name of a single country.

That is, even Richman didn't release classified information here. There's even less to suggest Fitzgerald did.

The loaner prosecutors (and James Hayes) just made that up. Which is what Comey noted in a response.

> [T]he government's effort to defame lead defense counsel provides no basis to grant the motion.
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> [snip]
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> [T]here is no good faith basis for attributing criminal conduct to either Mr. Comey or his lead defense counsel. Similarly, there is no good faith basis to claim a "conflict" between Mr. Comey and his counsel, much less a basis to move to disqualify lead defense counsel.

Their goal in doing so is now clear: They want to get details of what Richman said while representing Comey *after* Richman had left and

Comey was fired from the FBIm a time period that is irrelevant to charges pertaining to what Richman did as an FBI employee.

And to do that, they're treating the Comey Memos as akin to some kind of grand insurance fraud (the common crime behind the precedent they're invoking to conduct a highly invasive privilege review), when it was quite legitimately something you would do — sharing your own memorialization of sensitive events — with a lawyer. Which is probably why, per the original filing, Comey plans to challenge the warrant to get to that material.

Their filing is at least disingenuous about something else. They claim they need Judge Nachmanoff to make a decision about this quickly so that they can meet their trial deadlines.

> Prompt implementation of the filter protocol is necessary in this case so the current trial milestones are maintained and met. This has been a point of emphasis from the Court. This desire is also shared by the government.
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> Here, the potentially protected material could contain exculpatory or inculpatory evidence relevant to the defense and the government. Currently, the government is not aware of the contents of the potentially protected material. As a party to some of the communications contained in the potentially protected material, the defense necessarily has awareness.

But this bid for a filter team *already* necessarily disrupts the trial deadlines.

As I pointed out here, the current schedule — especially the "the fastest CIPA process you have ever seen in your lives" that Judge Nachmanoff ordered at the arraignment — presumes that Fitzgerald will get clearance quickly.

> The schedule proposed by the parties

> assumes that attorney Patrick Fitzgerald receives his security clearance, or interim clearance, within a reasonable time, and that all the classified materials to be reviewed are made available to the defense within a reasonable time.

You don’t agree to that CIPA schedule and then decide you want to kick Fitzgerald off the case. At that point, you’re effectively fucking with Comey’s Speedy Trial right. If you, as prosecutors, are *compelled* to identify conflicts, you’re compelled to do so before you build an entire trial schedule around there not being one.

And you especially don’t get to do that when this material has been in DOJ custody since 2019.

If there were reason to believe the discussions that Comey memorialized about Trump’s attempt to kill the Russian investigation included evidence of a crime, Bill Barr would have pursued it back in 2020. He didn’t.

And yet now the loaner prosecutors want to delay Comey’s trial so they can make a mad bid to get material that was clearly privileged.