

THE HALLOWEEN SPECIAL ATTORNEY'S LOANER AUSAS' LOANER AUSA FORGOT TO DESCRIBE JIM COMEY'S IMAGINARY CRIME

Lindsey Halligan's Loaner AUSAs have submitted their responses to Jim Comey's initial motions, which I've laid out below.

The Tl;dr of the response to the observation that Lindsey was not lawfully appointed (DOJ submitted the same motion in both Comey and Tish James' case) is that Lindsey was lawfully appointed even though two judges had said she wouldn't be by the time she was appointed, and if not, then the indictments are still valid because Pam Bondi retroactively appointed Halligan to be a very Special Attorney on Halloween.

No.

Really.

The response to the vindictive and selective prosecution spends a lot of time saying that Lindsey didn't vindictively prosecute Trump, and Donald Trump's animus to Jim Comey wasn't about his First Amendment speech, but about Trump's claim that Comey leaked information, when the filing doesn't actually show that Comey did that at all.

Not only that, the filing makes clear the problems with DOJ's case that Comey lied about authorizing Dan Richman to share information.

None of the times Richman served as a source fit the criteria of Ted Cruz' question (that is, from when Richman was at FBI, speaking about the Clinton investigation, anonymously, with Jim Comey's involvement ahead of time). The closest

was for this flowchart regarding Jim Comey's decision to announce he had reopened the investigation into Hillary's emails – the act that cost Hillary the election.

The next day, Mr. Richman sent the defendant an email regarding an op-ed he had been asked to write for The New York Times about the defendant's letter. Gov. Ex. 5 (Oct. 30, 2016 emails). Mr. Richman stated that he was "not inclined" to "write something," but that he would "do it" if the defendant thought it would "help things to explain that [the defendant] owed cong absolute candor," and that the defendant's "credibility w cong w[ould] be particularly important in the coming years of threatened cong investigations." See id. The defendant responded: "No need. At this point it would [be] shouting into the wind. Some day they will figure it out. And as [Individual 1 and Individual 2] point out, my decision will be one a president elect Clinton will be very grateful for (although that wasn't why I did it)." See id. The defendant appears to have reconsidered that view shortly thereafter. On November 1, 2016, he emailed Mr. Richman, stating:

When I read the times coverage involving [Reporter 1], I am left with the sense that they don't understand the significance of my having spoke about the case in July. It changes the entire analysis. *Perhaps you can make him smarter.*

Let's imagine the Times had a policy against writing new articles close to elections if the articles might influence the election. Consistent with that policy they would avoid writing this week if

sources told them that the FBI was looking at Huma Abedin's emails.

But let's imagine that they wrote a very high profile piece in July that sources lead them to now conclude was materially inaccurate. Would they correct it or stay silent because they have a policy to avoid action near elections?

I suspect they would quickly conclude that either course is an "action" and the choices are either reporting or concealing but there is no longer a "neutral" option because of the reporting in July. I also suspect they would resolve very quickly to choose the action of disclosing because to remain silent is to actively mislead, which has a wide range of very bad consequences.

Why is this so hard for them to grasp? All the stuff about how we were allegedly careful not to take actions on cases involving other allegations about which we have never spoken is irrelevant. I love our practice of being inactive near elections. But inactivity was not an option here. The choices were act to reveal or act to conceal.

See Gov. Ex. 6 (Nov. 1–2, 2016 emails) (emphases added).

Mr. Richman responded the next day, stating: "This is precisely the case I made to them and thought they understood. I was quite wrong. Indeed I went further and said mindless allegiance to the policy (and recognition that more evidence could come in) would have counseled silence in July to let hrc twist in the wind." See *id.* Mr. Richman emailed the defendant

shortly thereafter, writing, “Just got the point home to [Reporter 1]. Probably was rougher than u would have been.” See id.

The defendant emailed Mr. Richman shortly thereafter, entitling the message “Pretty good” and sending a link to a New York Times piece regarding the defendant’s purported options in late October 2016 concerning the Clinton email investigation (Midyear Exam). See Gov. Ex. 7 (Nov. 2, 2016 email chain); Matt Apuzzo and Sergio Peçanha, These Are the Bad (and Worse) Options James Comey Faced, N.Y. Times (Nov. 2, 2016).⁴ The defendant wrote: “Someone showed some logic. I would paint the cons more darkly but not bad.” See Gov. Ex. 7 (emphasis added). Mr. Richman responded: “See I *can* teach.” See id. The defendant replied: “Well done my friend. Who knew this would. E so uh fun.”⁵ See id. (emphasis added).

But the conversation between Richman and Comey is about logistics, not Hillary. Moreover, since it’s a flowchart, it’s not like Richman could be an anonymous source (and the conversation took place in context of doing an overt op-ed).

Additionally, it’s not even clear whether Richman was formally at FBI on that date. His “reappointment,” which had expired in June 2016, was pending as of October 27.

From: [redacted] (OGC) (FBI)
Sent: Thursday, October 27, 2016 1:55 PM
To: [redacted] (HRD) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (SD) (FBI); [redacted]
Subject: RE: Dan Richman -- UNCLASSIFIED//~~FOUO~~

b6 1
b7C 1
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Classification: UNCLASSIFIED//~~FOUO~~

H [redacted]

Thank you very much for the reminder. The EC has been pending in Sentinel as the Director’s Chief of Staff and GC Baker are still discussing the details of his reappointment. I will make sure to ping them.

The other examples regarding Hillary postdate the date – February 7, 2017 – Richman left FBI (in the first case, only by four days, but not

in a way that reflected Comey's foreknowledge).

From: [redacted] (HRD) (FBI)
Sent: Tuesday, April 24, 2018 3:59 PM
To: [redacted] (HRD) (FBI)
Cc: [redacted] (HRD) (FBI); [redacted] (HRD) (FBI)
Subject: RE: Dan Richman --- UNCLASSIFIED//~~FOUO~~

Classification: UNCLASSIFIED//~~FOUO~~
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Great, thank you. Did you ever get a signed acknowledgement back from him for the 2016-2017 term? I don't see one in the file and OGC states that he resigned 2/7/17.

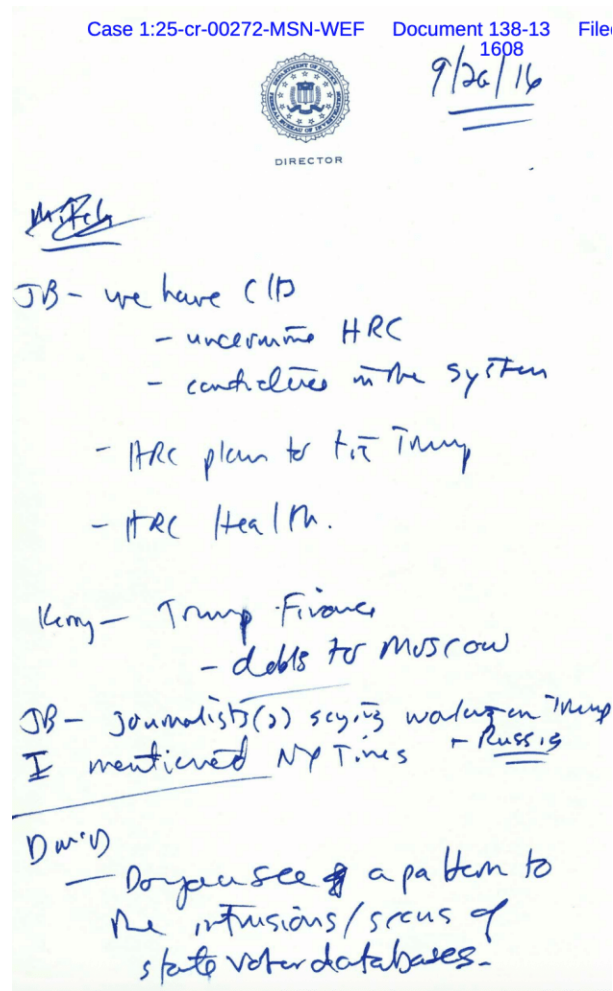
The Loaner AUSAs obscure that this happened after Richman left by not mentioning the date.

For example, in February 2017, Richman emailed Individual 3, a then-government official who had served in high-ranking positions at the FBI and DOJ. Mr. Richman wrote: "Hi [Individual 3] – my pal at the NYT, [Reporter 1] is (along with [Reporter 2], [Reporter 3], and (gag me) [Reporter 4]) is doing a huge piece on the HRC emails. He's had a ton of background conversations with players and non-players (like me). [Reporter 1] very much would like to talk to you exclusively on background as he tries to understand[] Jim's decision making to the extent possible. [Reporter 1] asked me to reach out to you. Hence this email. Would you be willing to chat with him?" See Gov. Ex. 9 (Feb. 11, 2017 email chain) (emphasis added). Individual 3 replied in the affirmative and stated that he would "reach out" to the reporter. See id.

The memos' attempt to prove Comey lied about having received this memo is even sillier.

It
claims
that an
investi
gative
team
that
include
d Jack
Eckenro
de
found
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memo
that
Jack
Eckenro
de
could
never
prove
that
FBI
receive

d as part of the Durham investigation in the
storage unit in WDVA FBI Headquarters.



Among the records found were many related to the FBI's Mar-a-Lago search, the January 06 capitol breach, the Crossfire Hurricane investigation, as well as a copy of the Classified Appendix to the John Durham Special Counsel investigation. Moreover, an additional record discovered as part of this management review process was an original referral by the Central Intelligence Agency (CIA) to former FBI Director James Comey, known as a Counterintelligence Operational Lead (CIOL). This CIOL, believed to have been missing for several years, was dated September 07, 2016 and contained certain intelligence related to the 2016 U.S. presidential election campaign. The CIOL was found in a storage closet adjacent to the Director's office and was

subsequently transported to the 9582 SCIF. Former Director Comey previously testified before the Senate Judiciary Committee that he was unfamiliar with this CIOL as well as its related intelligence.

On top of the wildly inappropriate notion of putting the guy who conducted a witch hunt in charge of validating when evidence supporting his witch hunt happened, this memo doesn't describe when the memo was moved (and therefore whether it ended up in the FBI Director's closet under Wray's tenure), and it sounds like the original from the CIA, still doing nothing to prove it was ever sent to the FBI.

Crazier still, the filing presents Jim Comey's notes recording (probably) John Brennan briefing Comey on something that might be the content of the CIOL or might be something else entirely ... 19 days after FBI allegedly received the CIOL, on September 26, 2016.

In other words, they make a better affirmative case that Comey didn't receive the CIOL on September 7 than that he did, because if the Brennan briefing on September 26 is about the same topic, why would Brennan have to brief Comey? And we know Brennan believed this was about hacking Hillary, not about a nefarious plot Hillary had.

The Loaner AUSAs obscure that Lindsey's question was not about that information, but about the CIOL dated September 7, this way:

The discovery of the handwritten notes is relevant considering the defendant's prior testimony on September 30, 2020. Of note, during that hearing, the defendant was questioned by Senator Graham of South Carolina and Senator Hawley of Missouri. See Gov. Ex. 14. The questions focused on whether the defendant remembered "being taught" of "U.S. presidential candidate Hillary

Clinton's approval of a plan concerning U.S. presidential candidate Donald Trump and Russian hackers hampering U.S. elections as a means of distracting the public from her use of a private email server." See *id.* The defendant responded by stating that "it doesn't ring any bells with me" and "I don't know what that refers to" and "I don't remember receiving anything that is described in that letter." See *id.* at 1 and 5. Despite this testimony, the defendant's handwritten notes dated September 26, 2016, read: "HRC plan to tie Trump." See Gov. Ex. 13 (Defendant's handwritten notes).

The actual vindictive and selective prosecution language – the entire filing is attributed to a Loaner AUSA from South Carolina, Kathleen Stoughton, who I guess is on loan to the Loaner AUSAs who signed it – is fine.

If you ignore that the Attorney General of the United States believes she can salvage Lindsey's appointment and this prosecution by making her into a pumpkin on Halloween Day.

Update: I've corrected where the burn bags were found. They were found in FBI HQ in DC, which makes the predication of an investigation in WDVA even weirder.

Links

Response unlawful appointment

- Pam Bondi's Halloween declaration that Lindsey was dressed up as a very Special Attorney all this time

Response vindictive and selective

- January 2, 2015: Letter stating that Richman would

not comment on matters he
“work[s] on for the Bureau”

- September 26, 2016: Notes from meeting, including about “cuts” on HRC plan to tie Trump
- October 29, 2016: Text saying, “The country can’t seem to handle your finding stuff”
- October 30, 2016: Richman offering to write an op-ed for NYT
- November 1-2, 2016: Comey suggests perhaps Richman can make Mike Schmidt smarter
- November 2, 2016: Richman noting story about Hillary
- February 11, 2017: Richman referring Mike Schmidt to Chuck Rosenberg
- April 23, 2017: Letter about Mike Schmidt’s story
- May 11, 2017: Texts with Mike Schmidt about Comey’s firing
- July 21, 2025: Opening memo for 18 USC 2071 investigation