

# THE 11 FUCK-UPS PAM BONDI'S DOJ MADE IN INDICTING JIM COMEY

Magistrate Judge William Fitzpatrick has ordered the government to give Jim Comey grand jury materials by 3PM.

He provided four bases for doing so. First, it's likely the material presented to the grand jury violated Comey's Fourth Amendment, as I explained in a video this morning.

As Fitzpatrick describes, there were several errors. DOJ didn't scope most of the communications seized in 2019 and 2020 (that is, a Bill Barr fuck-up). And then, they chose not to obtain a new warrant to access the materials for a totally different investigation.

By the summer of 2025, the FBI and the United States Attorney's Office for the Eastern District of Virginia (USA0-EDVA) had initiated a criminal investigation into Mr. Comey. ECF Nos. 172-1 and 172-2. As part of the investigation, on September 12, 2025, an FBI agent assigned to the Director's Advisory Team was instructed, apparently with the concurrence of the USAOEDVA, 7 to review "a Blu-ray disc that contained a full Cellebrite extraction and Reader reports of [Mr. Richman's] iPhone and iPad backups." ECF 172-1.

Inexplicably, the government elected not to seek a new warrant for the 2025 search, even though the 2025 investigation was focused on a different person, was exploring a fundamentally different legal theory, and was predicated on an entirely different set of criminal offenses. The Court recognizes that a failure to seek a new warrant under these circumstances is

highly unusual. The Court also recognizes that seeking a new warrant under these circumstances would have required a fresh legal analysis and likely resulted in some delay, a delay the investigative team could not afford given that the statute of limitations would expire in a mere 18 days. See 18 U.S.C. § 3282(a).

If a new warrant had been sought by the government and issued by the Court, the Fourth Amendment would have required it to be narrowly tailored, authorizing access only to materials within a limited time frame and relevant to the new offenses under investigation. See *Williams*, 592 F.3d at 519. In addition, any new warrant would have imposed strict procedural safeguards to ensure privileged information was not reviewed by the prosecution team. As a result, the parameters of the 2025 search would inevitably have had a different and much narrower scope than the Richman Warrants. Faced with this prospect, the government chose to unilaterally search materials that were (1) seized five years earlier; (2) seized in a separate and since closed investigation; (3) that were never reviewed to determine whether the seized information was responsive to the original warrants; (4) that were likely improperly held by the government for a prolonged period of time; (5) that included potentially privileged communications; (6) did so without ever engaging the privilege holders; and (7) did so without seeking any new judicial authority.

Second, after being exposed to privileged communications, Miles Starr nevertheless still presented the case to the grand jury.

Third, Lindsey Halligan fundamentally misinformed the jury, first by suggesting that

Comey would have to testify at trial, and second by implying there was a bunch more evidence that would be used at trial (which might reflect taint from the privileged comms Starr knew of).

Fourth, she apparently did not re-present the charges the grand jury approved – what I surmised last week.

The short time span between the moment the prosecutor learned that the grand jury rejected one count in the original indictment and the time the prosecutor appeared in court to return the second indictment could not have been sufficient to draft the second indictment, sign the second indictment, present it to the grand jury, provide legal instructions to the grand jury, and give them an opportunity to deliberate and render a decision on the new indictment. If the prosecutor is mistaken about the time she received notification of the grand jury's vote on the original indictment, and this procedure did take place, then the transcript and audio recording provided to the Court are incomplete.<sup>12</sup> If this procedure did not take place, then the Court is in uncharted legal territory in that the indictment returned in open court was not the same charging document presented to and deliberated upon by the grand jury. Either way, this unusual series of events, still not fully explained by the prosecutor's declaration, calls into question the presumption of regularity generally associated with grand jury proceedings, and provides another genuine issue the defense may raise to challenge the manner in which the government obtained the indictment.

<sup>12</sup> It is the responsibility of the United States Attorney's Office to record and, if required, transcribe all

■ grand jury proceedings.

All in all, Fitzpatrick lists 11 things that might merit throwing out the indictment – if there is one – altogether.