

WHAT WE KNOW ABOUT THE DAY OF JIM COMEY'S INDICTMENT

Let's assume for the moment that, to the extent the players involved in indicting Jim Comey understand the least little bit about what went down, they're telling the truth.

Here's what Lindsey Halligan's big day would look like.

In the morning, "the team" worked together to prepare the indictment against Comey. According to CNN, that team included the FBI agents from the FBI Director's Advisory Team pursuing this case and FBI attorneys.

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.

As part of that process, Special Agent Spenser Warren mentioned some texts that EDVA's prosecutors had chosen not to use in an interview weeks earlier of Dan Richman. Warren explained that they seemed to include privileged communication.

On the morning of September 25, 2025, the team was preparing for an indictment of James Comey, to occur later that afternoon. SA Warren provided case agent SA Miles Starr and an FBI Office of General Counsel (OGC) attorney a limited overview of the text message communications to and from "Michael Garcia" (now understood to be Daniel Richman). SA Warren advised SA Starr and the FBI OGC attorney that some of the

messages appeared to reference potential future legal representation. The FBI OGC attorney immediately advised that any of the text message communications referencing potential future legal representation should not be part of the indictment preparation. SA Warren provided the indictment preparation team a two-page document containing limited text message content only from May 11, 2017, predating the reference to potential future legal representation.

Magistrate Judge William Fitzpatrick describes there was “A second agent, possibly Agent-2, was also on the call but that that person’s identity has been shielded from the Court.” But given other filings in the case, it’s more likely the second agent is Jack Eckenrode, not least because Comey believes he was also exposed to these materials.

This OGC lawyer referenced in this affidavit is presented as someone outside the case team. Except CNN describes that FBI lawyers were part of Lindsey’s preparation, and a person named Gabriel Cohen shows up in document metadata for three case filings – two of them regarding whether Jim Comey should get grand jury materials, including Lindsey’s declaration about what happened that day – as OGC.

Document properties

File name:	gov.uscourts.vaed.582135.188.1.pdf
File size:	217 KB
Title:	-
Author:	Cohen, Gabriel (OGC) (DET)
Subject:	-
Keywords:	-
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Application:	Acrobat PDFMaker 25 for Word

Whoever the OGC lawyer in question is, he tells “the team” not to include those particular texts, “referencing potential future legal representation,” in the grand jury presentment. So Warren provided a two-page exhibit of texts

that preceded the privileged communication. But, as Fitzpatrick described, that OGC lawyer did *not* advise someone besides Miles Starr (who, again, works on the Director's Advisory Team) to present the case.

Agent-3, rather than remove himself from the investigative team until the taint issue was resolved, proceeded into the grand jury undeterred and testified in support of the pending indictment. ECF 179. In fact, Agent-3 was the only witness to testify before the grand jury in support of the pending indictment. *Id.* The government's decision to allow an agent who was exposed to potentially privileged information to testify before a grand jury is highly irregular and a radical departure from past DOJ practice.

Within hours, Starr went from hearing about these privileged communications to serving as the sole witness to the indictment against Jim Comey.

The presentment started at 2:18PM. Somewhere along the way, Lindsey had problems working the ELMO AV system, and grand jurors and someone else – possibly the Grand Jury Coordinator? – tried to help her.

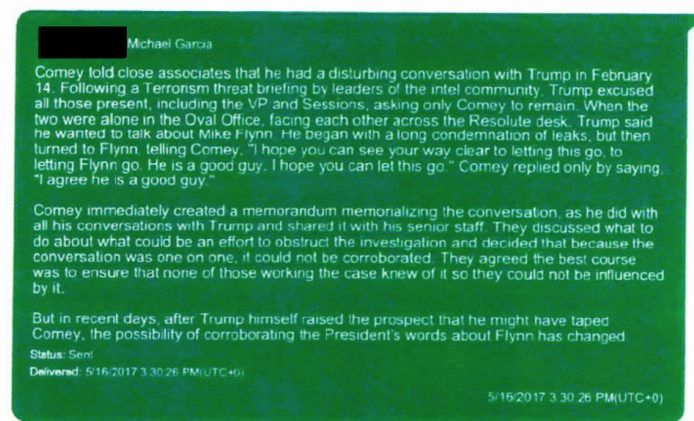
There was one instance where the prosecutor had technical issues with ELMO and some of the jurors assisted and came in to assist as well.

Not only did Starr present as an exhibit the opening memo for a related – and ridiculous – case in WDVA he himself authored, which contained a patently false representation of Jim Comey's September 30, 2020 testimony regarding the "Clinton Plan" (reliance on which could be a crime in any case).

Former Director Comey previously testified before the Senate Judiciary

Committee that he was unfamiliar with this CIOL as well as its related intelligence.

But rather than using the 2-page exhibit of Dan Richman texts that stopped before those privileged texts he had learned about hours before, Starr used a different 8-page exhibit, which went right through the period when Richman (using his pseudonym Michael Garcia) shared details of Donald Trump pushing Jim Comey to drop an investigation into Mike Flynn.



To be clear: Unless you are misrepresenting the questions at issue (and remember, there is no transcript of the exchange Comey had with Ted Cruz included among the 14 exhibits that appear to have been presented to the grand jury), there is no sound reason to present *any* of these texts. None could be proof that Comey had authorized Richman to share this information while at FBI, because Richman had left months earlier. None could be proof that Comey lied to Chuck Grassley on May 3, 2017 about serving as a source for stories on the Russian investigation (which Grassley called the Trump investigation), because *they all postdated Grassley's question*. None could be proof that Comey intended to obscure all this in September 2020, because he had already told Susan Collins about all of this on June 8, 2017.

According to Fitzpatrick, the grand jurors asked a lot of challenging questions.

[T]he statement by the prosecutor was made in response to challenging questions from grand jurors, the context of which suggests the grand jurors may have reasonably understood the prosecutor to mean that if she could not satisfactorily answer their questions, then Mr. Comey would “[redacted]” answer these questions at trial.

According to Loaner AUSA Gabriel Diaz, Lindsey and Miles Starr had already addressed the last grand juror question when she made one of two problematic comments.

The transcript itself refutes the notion that the U.S. Attorney was responding to unresolved juror confusion about Fifth Amendment rights. The last question from a grand juror appears several pages earlier in the transcript, during an exchange between the U.S Attorney and the witness about [redacted] and in that exchange the juror’s question was resolved.

What Diaz does not dispute (at least in unredacted form) is that Lindsey did promise that, “the government anticipated presenting additional evidence were the case to proceed to trial,” which Fitzpatrick took to invite grand jurors to assume there was better evidence.

That statement clearly suggested to the grand jury that they did not have to rely only on the record before them to determine probable cause but could be assured the government had more evidence—perhaps better evidence—that would be presented at trial.

Diaz simply ignores this comment altogether in his unredacted response.

If this reference was remotely in context of those texts – the ones that extend well past the

date when Richman came to represent Comey – such a promise would taint the entire proceeding.

Lindsey finished up her presentation at around 4:28. She left, along with the court reporter.

After about two hours of deliberation, so around 6:28, the grand jury voted. They rejected what was then Count One, pertaining to the alleged “Clinton Plan” lie that Starr had misrepresented in his opening memo. They approved what were then Count Two, alleging that Comey had authorized someone *at the FBI* to serve as an anonymous source in news stories, as well as then Count Three, accusing Comey of obstructing the investigation the Senate Judiciary Committee was carrying out in September 2020 with false and misleading answers (which was limited to the Russian investigation, though I would bet 50 Bitcoin that grand jurors never learned that).

Then, the grand jurors left the grand juror room, and the court reporter collected the recording from the grand juror room and left.

At some point, the grand jury foreperson filled out the form indicating a no-billed indictment – the whole thing – in blue ink. That no-bill report also bears the signature of Lindsey Halligan, in blue ink.

By: 
LINDSEY HALLIGAN
UNITED STATES ATTORNEY

After that vote, the grand jury foreperson told the EDVA Grand Jury Coordinator (GJC) the result of the vote, and that person, in turn, informed EDVA’s Deputy Criminal Chief, who told the GJC to “amend” the indictment by removing the no-billed Count One. GJC did so, and according to them, then “presented the corrected indictment to the grand jury foreperson and the deputy foreperson.”

As far as we know, the court reporter was gone

by that point.

About ten minutes after the grand jury finished deliberation, at 6:40, Maggie Cleary told Lindsey,

that the grand jury had returned a true bill as to the presented Count Two and Count Three of the indictment and that the grand jury had not returned a true bill as to the presented Count One. I then proceeded to the courtroom for the return of the indictment in front of the magistrate judge.

The grand jury return transcript starts, at 6:47PM, with the announcement of a successful indictment, "charging "Jim Comey" with false statements within the jurisdiction of the legislative branch of the United States government and obstruction of a congressional proceeding." But then Magistrate Judge Lindsey Vaala started through the colloquy about accepting an indictment, and the foreperson revealed that on one count, Count One, fewer than 12 people supported the charge.

THE COURT: And for each count and for each defendant for all of the indictments, did a sufficient number, meaning at least 12, of grand jurors return a true bill?

THE FOREPERSON: One exception.

THE COURT: What is the exception?

THE FOREPERSON: James Comey, Jr., on Count One.

That's when Vaala tried to sort through the two fundamentally incompatible documents in front of her, which at that point included one document showing that grand jurors had rejected the entire indictment, and another showing that grand jurors accepted two charges.

THE COURT: Okay. When you say one count

– so I’m looking at two different – I’m looking at case 25-cr-272, United States of America v. James B. Comey, Jr. I have an indictment with two counts that my courtroom deputy read that looks to be signed by you, ma’am.

THE FOREPERSON: Yes.

THE COURT: And it says 14 grand jurors concurred in the indictment. And then I have a report of a grand jury’s failure to concur in an indictment, and it just reports that – has three counts, and it says that the grand jurors did not concur in finding an indictment in this case.

The foreperson described that “they” – we now know this was the GJC, who may have come into the grand jury presentation to help Lindsey run ELM0, and who by their own description “presented” the “corrected” indictment to just two members of the grand jury – separated the charge they didn’t agree on.

THE FOREPERSON: So the three counts should be just one count. It was the very first count that we did not agree on, and the Count Two and Three were then put in a different package, which we agreed on.

THE COURT: So you –

THE FOREPERSON: So they separated it.

The foreperson, probably out of confusion, falsely informed Vaala that the grand jury had voted on the indictment with just two counts.

THE COURT: Sorry, I didn’t mean to interrupt you. So you voted on the one that has the two counts?

THE FOREPERSON: Yes

That’s when Lindsey the Magistrate Judge asked

Lindsey the Insurance Lawyer to explain all this. Rather than offering an explanation – which might have saved Jim Comey two months of his life – Halligan disavowed involvement with the no-billed indictment. She knew the indictment had been “redrafted,” but *she denied signing the indictment.*

THE COURT: So this has never happened before. I’ve been handed two documents that are in the Mr. Comey case that are inconsistent with one another. There seems to be a discrepancy. They’re both signed by the foreperson. The one that says it’s a failure to concur in an indictment, it doesn’t say with respect to one count. It looks like they failed to concur across all three counts, so I’m a little confused as to why I was handed two things with the same case number that are inconsistent.

MS. HALLIGAN: So I only reviewed the one with the two counts that our office redrafted when we found out about the two – two counts that were true billed, and I signed that one. I did not see the other one. I don’t know where that came from.

THE COURT: You didn’t see it?

MS. HALLIGAN: I did not see that one.

THE COURT: So your office didn’t prepare the indictment that they –

MS. HALLIGAN: No, no, no – I – no, I prepared three counts. I only signed the one – the two-count. I don’t know which one with three counts you have in your hands.

THE COURT: Okay. It has your signature on it.

That’s when Vaala had the foreperson annotate the no-billed indictment (marked in pink below) to reflect that the grand jury had rejected just

one charge, and then recorded that the grand jury foreperson had done so in the transcript.

What I need you to do is write on this piece of paper both the case number, which is 25-cr-272, but also no true bill as to Count One only, and then sign and date it so that it's clear, okay? So I'm going to hand it back up to the courtroom security officer and have you do that. You can have a seat.

Okay. All right. So for the record, Madam Foreperson, I now have a report that looks like you've handwritten – a report that 12 or more grand jurors did not concur in finding an indictment in – and then you've added in handwriting – Count 1 only in this case. Is that correct?

THE FOREPERSON: Yes, ma'am.

AO 191 (Rev. 01/09) Report of a Grand Jury's Failure to Concur in an Indictment

UNITED STATES DISTRICT COURT
for the
Eastern District of Virginia

United States of America
v.
James B. Comey Jr.
Defendant

FILED
IN OPEN COURT
SEP 25 2025
CLERK, U.S. DISTRICT COURT
ALEXANDRIA, VIRGINIA

REPORT OF A GRAND JURY'S FAILURE TO CONCUR IN AN INDICTMENT

As the foreperson of the grand jury of this court at a session held at Alexandria, Virginia on Count 1 only
Sept 25, 2025, I report that 12 or more grand jurors did not concur in finding an indictment in this case.
Under Fed. R. Crim. P. 6(c), this record is being filed with the court clerk and will not be made public unless the court
orders otherwise.

Date: Sept 25, 2025

Pursuant to the E-Government Act,
The original of this page has been filed
under seal in the Clerk's Office

Foreperson's signature

This is one reason why the initial fucked version of the no-billed indictment matters. Lindsey Halligan says she didn't sign it.

As initially initially loaded into the docket, she had not: the signature page was actually the signature page from the two count "indictment," if we can call it that. But the next day (see William Ockham's correction), someone loaded a different copy of that document into the docket, and that version showed a signature from Lindsey Halligan, written in the same blue ink that the

grand juror foreperson had used to sign the original indictment.

This narrative answers many of the logistical questions about that day – which is a far cry from answering the legal ones. And most of what Lindsey the Insurance Lawyer (as distinct from the very confused Magistrate Judge) said in the declaration authored by Gabriel Cohen, OGC, is true, as to herself, including that, “I was never present in front of the grand jury alone.”

But what is not true is Lindsey’s claim – authored by Gabriel Cohen, OGC – that,

There was no additional presentation, interaction, or discussion with the grand jury outside of what is reflected in the transcript.

The GJC was alone with the foreperson and the deputy; no court reporter documented what happened between them.

Furthermore, there’s still no explanation of how Lindsey Halligan’s signature came to appear on that no-billed indictment, because Lindsey is on the record stating that she didn’t sign it.

Here are some obvious questions that remain to be answered:

- Is Gabriel Cohen part of the prosecutorial team and is he also the one who gave shoddy advice about taint?
- Did the person who put together an 8-page exhibit of Dan Richman texts know about the privileged communications they were going to chase on the other side of those texts?
- Was Lindsey’s promise of more evidence addressed

specifically to the texts from Dan Richman?

- Who signed the no-billed indictment?
- Is the “Deputy Criminal Chief” Maggie Cleary?
- Who all was involved in the decision to salvage the indictment by “amending,” “correcting,” or “redrafting” (all representations to the court) it to exclude the no-billed charge?
- Did they know that the obstruction charge relies on – and prosecutors intend to rely on – the alleged false statement the grand jury no-billed?
- Does Pam Bondi want to reconsider her ratification of all of this?

Cast of characters

Lindsey Halligan: Donald Trump’s defense attorney and sometime Smithsonian bigot

Maggie Cleary: Before Trump demanded Pam Bondi install Lindsey, the partisan attorney Pam Bondi installed as First Assistant US Attorney in EDVA; Cleary is the person who told Halligan that the grand jury had no-billed one charge; she was removed on October 13

EDVA Deputy Criminal Chief: This person instructed the EDVA grand jury coordinator to “amend” the indictment

EDVA Grand Jury Coordinator: After “amend[ing]”

the indictment, they “presented the corrected indictment to the grand jury foreperson and the deputy foreperson” without a court reporter present; if Lindsey did not sign the no-bill indictment, the Grand Jury Coordinator is the most likely person to have done so

Jack Eckenrode: Senior Advisor to Kash Patel, lead investigator for John Durham, and former FBI Agent on Scooter Libby case

Miles Starr: Lead case agent on this and other Comey cases

Tyler Lemons: On loan from EDNC

Gabriel Diaz: On loan from EDNC

James Hayes: Litigation Attorney at Main Justice, he is listed as author of the following:

- Motion for discovery order
- Consent motion for CIPA protective order
- Motion for filter protocol
- Motion for expedited ruling on filter protocol
- Appeal of initial order to share grand jury materials
- Additional briefing on order to disclose grand jury materials
- Emergency motion to stay order to share grand jury materials

Gabriel Cohen: Metadata lists him as OGC, possibly in Detroit, he is the author of:

- Response on motion to disclose grand jury materials
- Response on motion for Bill

of Particulars

- Lindsey Halligan
declaration on what happened
with the grand jury

Henry Whitaker: The former Solicitor General of Florida and currently Pam Bondi's counselor, he is the signed author of:

- Response on unlawful
appointment

Kathleen Stoughton: An AUSA in South Carolina with solid appellate experience, she is listed as author of:

- Response on vindictive
prosecution

Michael Shedd: A newish AUSA in South Carolina, he is listed as author of:

- Response on literal truth

lheim: Metadata lists as author of:

- Pam Bondi re-ratification of
indictment