

THE MOMENT OF TRUTH COMES FOR COHEN AND FLYNN

As you likely know by now, Trump fixer Michael Cohen is getting sentenced this morning. In fact, the proceeding is starting as I write this post, so I am going to get it up so that there is an appropriate place to discuss the events.



There are three sentencing memos in the Cohen matter

- 1) Cohen's memo
- 2) The SDNY Memo
- 3) The Mueller SCO Memo

The sentencing guideline range is 51-63 months, but the government has already suggested a downward departure, i.e. a reduction for those that do not practice federal criminal law, to 41 months. Remember, he is being, technically, sentenced on two different pleas today, the original comprehensive plea, and the one count of lying to the Feds under 18 USC §1001. The latter is a tack on charge and is really not particularly pertinent for sentencing and, in fact, the government has recommended no additional time for that above and beyond whatever is imposed in the original SDNY case. The judge is William H. Pauley, and, for what it

is worth, he is not known for overly lenient sentences, and that is likely exacerbated in this case by the fact that Cohen's conduct impinged on government.

I will make no bets here, but at one point I thought Cohen would do a lot better at sentencing, but the SDNY sentencing memo was just brutal. Currently having a hard time seeing Cohen walking out with less than the 41 months SDNY recommended, but you never know, only Pauley gets to decide. Do note that, should Cohen wake up and fully cooperate in the future, he can still get relief in the next year under Rule 35 of the Federal Criminal Rules of Procedure. Who knows what is yet to come, but it is technically possible that his sentence is not written in stone.

One interesting question is whether Judge Pauley will remand Cohen into custody today, or allow him to go home and self report at a later date. The presumption is always remand, but Cohen's wife Laura clearly has health issues from seeing her enter the court this morning. If I were Cohen's lawyer, Guy Petrillo, I would ask for the courtesy on him taking her home and self reporting later. We shall see.

Also, if interested in the blow by blow in real time, follow Adam Klasfeld @KlasfeldReports on Twitter.

Will add in Some Flynn material in a bit.