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## FBI, DOJ roiled by Comey, Lynch decision to let Clinton slide by on emails, says insider

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FBI agents dismayed by failure to charge Clinton

The decision to let Hillary Clinton off the hook for mishandling classified information has roiled the FBI and Department of Justice, with one person closely involved in the year-long probe telling FoxNews.com that career agents and attorneys on the case unanimously believed the Democratic presidential nominee should have been charged.

The source, who spoke to FoxNews.com on the condition of anonymity, said FBI Director James Comey's dramatic July 5 announcement that he would not recommend to the Attorney General's office that the former secretary of state be charged left members of the investigative team dismayed and disgusted. More than 100 FBI agents and analysts worked around the clock with six attorneys from the DOJ's National Security Division, Counter Espionage Section, to investigate the case.

"No trial level attorney agreed, no agent working the case agreed, with the decision not to prosecute -- it was a top-down decision," said the source, whose identity and role in the case has been verified by FoxNews.com.

A high-ranking FBI official told Fox News that while it might not have been a unanimous decision, "It was unanimous that we all wanted her [Clinton's] security clearance yanked."

"It is safe to say the vast majority felt she should be prosecuted," the senior FBI official told Fox News. "We were floored while listening to the FBI briefing because Comey laid it all out, and then said 'but we are doing nothing,' which made no sense to us."

The FBI declined to comment directly, but instead referred Fox News to multiple public statements Comey has made in which he has thrown water on the idea that politics played a role in the agency's decision not to recommend charges.

"I know there were many opinions expressed by people who were not part of the investigation -- including people in government -- but none of that mattered to us," Comey said July 5 in announcing the FBI's decision on the Clinton emails. "Opinions are irrelevant, and they were all uninformed by insight into our investigation, because

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we did the investigation the right way. Only facts matter, and the FBI found them here in an entirely apolitical and professional way."

Andrew Napolitano, former judge and senior judicial analyst for Fox News Channel, said many law enforcement agents involved with the Clinton email investigation have similar beliefs.

"It is well known that the FBI agents on the ground, the human beings who did the investigative work, had built an extremely strong case against Hillary Clinton and were furious when the case did not move forward," said Napolitano. "They believe the decision not to prosecute came from The White House."

The claim also is backed up by a report in the New York Post this week, which quotes a number of veteran FBI agents saying FBI Director James Comey "has permanently damaged the bureau's reputation for uncompromising investigations with his cowardly whitewash of former Secretary of State Hillary Clinton's mishandling of classified information using an unauthorized private email server."

"The FBI has politicized itself, and its reputation will suffer for a long time. I hold Director Comey responsible," Dennis V. Hughes, the first chief of the FBI's computer investigations unit, told the Post. Retired FBI agent Michael M. Biasello added to the report, saying, "Comey has singlehandedly ruined the reputation of the organization."

Especially angering the team, which painstakingly pieced together deleted emails and interviewed witnesses to prove that sensitive information was left unprotected, was the fact that Comey based his decision on a conclusion that a recommendation to charge would not be followed by DOJ prosecutors, even though the bureau's role was merely to advise, Fox News was told.

"Basically, James Comey hijacked the DOJ's role by saying 'no reasonable prosecutor would bring this case,'" the Fox News source said. "The FBI does not decide who to prosecute and when, that is the sole province of a prosecutor -- that never happens.

"I know zero prosecutors in the DOJ's National Security Division who would not have taken the case to a grand jury," the source added. "One was never even convened."

Napolitano agreed, saying the FBI investigation was hampered from the beginning, because there was no grand jury, and no search warrants or subpoenas issued.

"The FBI could not seize anything related to the investigation, only request things. As an example, in order to get the laptop, they had to agree to grant immunity," Napolitano said.

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In early 2015, it was revealed that Clinton had used a private email server in her Chappaqua, N.Y., home to conduct government business while serving from 2009-2013. The emails on the private server included thousands of messages that would later be marked classified by the State Department retroactively. Federal law makes it a crime for a government employee to possess classified information in an unsecure manner, and the relevant statute does not require a finding of intent.

Although Comey found that Clinton was “extremely careless in their handling of very sensitive, highly classified information,” he said “no charges are appropriate in this case.”

Well before Comey’s announcement, which came days after Bill Clinton met in secret with Comey’s boss, Attorney General Loretta Lynch, there were signs the investigation would go nowhere, the source told FoxNews.com. One was the fact that the FBI forced its agents and analysts involved in the case to sign non-disclosure agreements.

“This is unheard of, because of the stifling nature it has on the investigative process,” the source said.

Another oddity was the five so-called immunity agreements granted to Clinton’s State Department aides and IT experts.

Cheryl Mills, Clinton's former chief of staff, along with two other State Department staffers, John Bentel and Heather Samuelson, were afforded immunity agreements, as was Bryan Pagliano, Clinton's former IT aide, and Paul Combetta, an employee at Platte River networks, the firm hired to manage her server after she left the State Department.

As Fox News has reported, Combetta utilized the computer program “Bleachbit” to destroy Clinton’s records, despite an order from Congress to preserve them, and Samuelson also destroyed Clinton’s emails. Pagliano established the system that illegally transferred classified and top secret information to Clinton’s private server. Mills disclosed classified information to the Clinton’s family foundation in the process, breaking federal laws.

None should have been granted immunity if no charges were being brought, the source said.

“[Immunity] is issued because you know someone possesses evidence you need to charge the target, and you almost always know what it is they possess,” the source said. “That's why you give immunity.”

Mills and Samuelson also received immunity for what was found on their computers, which were then destroyed as a part of negotiations with the FBI.

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“Mills and Samuelson receiving immunity with the agreement their laptops would be destroyed by the FBI afterwards is, in itself, illegal,” the source said. “We know those laptops contained classified information. That's also illegal, and they got a pass.”

Mills' dual role as Clinton's attorney and a witness in her own right should never have been tolerated either.

“Mills was allowed to sit in on the interview of Clinton as her lawyer. That's absurd. Someone who is supposedly cooperating against the target of an investigation [being] permitted to sit by the target as counsel violates any semblance of ethical responsibility,” the source said.

“Every agent and attorney I have spoken to is embarrassed and has lost total respect for James Comey and Loretta Lynch,” the source said. “The bar for DOJ is whether the evidence supports a case for charges -- it did here. It should have been taken to the grand jury.”

Also infuriating agents, the New York Post reported, was the fact that Clinton's interview spanned just 3½ hours with no follow-up questioning, despite her “40 bouts of amnesia,” and then, three days later, Comey cleared her of criminal wrongdoing.

Many FBI and DOJ staffers believe Comey and Lynch were motivated by ambition, and not justice, the source said.

“Loretta Lynch simply wants to stay on as Attorney General under Clinton, so there is no way she would indict,” the source said. “James Comey thought his position [excoriating Clinton even as he let her off the hook] gave himself cover to remain on as director regardless of who wins.”

The decision by Comey and Lynch not to prosecute has renewed FBI agents' belief that the agency should be autonomous.

“This is why so many agents believe the FBI needs to be an entity by itself to truly be effective,” the senior FBI official told Fox News. “We all feel very strongly about it -- and the need to be objective. But that truly cannot be done when the AG is appointed by a president and attends daily briefings.”

Adding to the controversy, WikiLeaks released internal Clinton communication records this week that show the Department of Justice kept Clinton's campaign and her staff informed about the progress of its investigation.

Leaked emails from Clinton campaign chairman John Podesta's gmail account show the Clinton campaign was contacted by the DOJ on May 19, 2015.

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“DOJ folks inform me there is a status hearing in this case this morning, so we could have a window into the judge’s thinking about this proposed production schedule as quickly as today,” Clinton press secretary Brian Fallon wrote in relation to the email documentation the State Department would be required to turn over to the Justice Department.

Jay Sekulow, chief counsel for the American Center for Law and Justice, who previously served in the U.S. Treasury Department in the Office of Chief Counsel for the IRS, where he was responsible for litigation in the U.S. Tax Court, said it was clear from the start that the FBI never intended to prosecute.

“This was a fake, false investigation from the outset,” Sekulow said.

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