

Hillary Clinton's tightrope walk

Hillary Clinton is teetering on a legal tight rope. She is counting on Attorney General Loretta Lynch to block the anticipated request for a Grand Jury to indict her for violation of federal laws governing the handling of classified information. Lynch, however, will become a pariah with lead investigators at the FBI and many career prosecutors at Justice if she intervenes to prevent prosecution of Hillary Clinton. The overwhelming quantity of emails containing classified information that Clinton caused to be transmitted to and from her personal email account and possible additional federal corruption charges are too great to excuse, ignore, or sweep under the rug. The evidence is indeed overwhelming and, unlike in the case of General David Patraeus (whose dereliction constituted one instance of mishandling of classified information), Hillary Clinton's dereliction involves over 1,340 separate communications. Increasingly, it looks like the central issue about to arise is not whether Hillary will be recommended for indictment by the FBI, but whether Lynch will sacrifice her own career to prevent the matter from reaching a grand jury, and whether the Democratic Party will stand by Hillary Clinton and back her presidential bid even if she is the subject of an FBI recommendation to indict or an actual indictment.

Fox News' Catherine Herridge and Pamela Browne reported this past week that the FBI investigation of Hillary Clinton embraces not only the mishandling of classified information but also public corruption charges based on influence peddling. Peter Schweizer's Clinton Cash first drew significant attention to the overlap between foreign donations to the Clinton Foundation and Hillary Clinton's actions while serving as Secretary of State. At root, FBI seeks to determine

if decisions made by Hillary Clinton in her dealings with foreign businesses and leaders were in any way in response, or pay back, for contributions lavished upon the Clinton Foundation by those same businesses and leaders or at the direction of those businesses and leaders.

It may well be that if Lynch lets a bill for indictment proceed before a federal Grand Jury, Hillary Clinton will not only be forced to answer for the mishandling of state secrets but also for unlawful influence peddling to bolster the coffers of the Clinton family foundation. The law violations are linked to a significant prison term for the former Secretary of State.

The pressure on Lynch to let the charges proceed will be intense from the FBI, and even from within Justice. Given the waning months of the Obama presidency, and the likelihood that a refusal to allow the charges to proceed would permanently damage Lynch's reputation in the legal community, there are fair odds that Lynch will let the matter proceed (and that Obama will not act to stop the prosecution). Indeed, by relying on the highly secretive and expert litigation team within the National Security Division of the Department of Justice rather than the general criminal division, Lynch may already have sealed Clinton's fate. As soon as the FBI completes its investigation and refers the matter to justice with a recommendation to prosecute, the pressure will be acute on Lynch to do the right thing and honor the rule of law over politics. Given the animosity between the Obamas and the Clintons, it is also possible that Obama will not take any extraordinary step to interfere by either pressuring Lynch to block prosecution or taking any other step that might make prosecution more difficult.

Hillary Clinton is thus teetering on a legal tight rope. If indicted before the Democratic National Convention, she may well lose the nomination to Sanders. Undoubtedly it will increase the likelihood that Sanders will be the nominee if

her indictment, or even a recommendation for indictment, comes down before the convention. What if she is indicted after she becomes the Democratic nominee? The Democratic Party would likely face considerable pressure to seek a second convention to fend off a serious independent party challenge, perhaps with Bernie Sanders running in that capacity.

Overall, any indictment of Clinton will create a new dynamic that will add impetus for greater independent support for the Republican nominee. Indeed, if the Republican is otherwise neck and neck with the Democratic nominee, a Clinton indictment could well flip the election for a Republican, particularly if the groundswell of disaffected voters now brought back into the electorate by Donald Trump remains involved to the point of voting in the general election.

But what if either through pressure from Obama or on her own initiative, Lynch blocks the prosecution of Clinton? An action of that kind might well result in a series of resignations from high level investigators and lawyers within the FBI and Justice and publicity sufficient to trigger public ire as well. Public condemnations of the failure to make Hillary account for law violations, far fewer of which have resulted in prison time or plea deals with hefty fines for dozens of others, including General Patraeus, may also be enough to give victory to the Republican nominee. It will certainly be a choice point of publicity in favor of the Republican nominee over Hillary throughout the remainder of the general election season.

The mainstream media, so willing to maintain apologias for Hillary Clinton, have yet to appreciate the adverse political avalanche that is about to befall the putative Democratic standard bearer. Burdened by shallow political support and the highest negative ratings of any candidate running (predicated on public perception that Hillary is a "liar"), Hillary Clinton is indeed teetering. An indictment or word of FBI recommendation of an indictment may be enough to cause her

fall, denying her the Democratic nomination; or, if she is nominated before being indicted or recommended for indictment, that may be enough to ensure her loss in the general election.

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