

# Why Hillary Clinton's Email Case Is Still Not Closed

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*Normally, when the head of the FBI under one President says something like [“no reasonable prosecutor would bring such a case”](#), as the FBI reported regarding Hillary Clinton's emails, that would be the end of the matter; but Clinton actually still isn't off the prosecutorial hook of this criminal case, unless and until she becomes President herself.*

The decision as to whether or not to prosecute her on this matter is not made by the FBI Director, but by the Attorney General. The current one, Loretta Lynch, was appointed by (and holds her job at the discretion of) the man who has endorsed Ms. Clinton to become his own successor: the current U.S. President, Barack Obama. If Clinton doesn't become the next President, the next Attorney General won't be appointed by Clinton, and that person will then be making any decision as to whether or not to present the Clinton emails-case to a grand jury; and, if an indictment results, then to present it to a trial jury.

Even the Obama appointee to be the FBI's chief, Mr. Comey, introduced his statement there, by acknowledging that “there is evidence of potential violations of the statutes regarding the handling of classified information.” As regards his opinion that “no reasonable prosecutor would bring such a case,” reasonable prosecutors already *have brought* such cases, and they have *won convictions* on these cases. So, just based on that record, Mr. Comey clearly lied there.

The independent journalist who goes by the pseudonym “Tyler Durden” headlined, only a day after Mr. Comey on July 5th exonerated Ms. Clinton, [“Meet Bryan Nishimura, Found Guilty For ‘Removal And Retention Of Classified Materials’,”](#) and that conviction was won on the same statute for which Comey as Clinton's would-be policeman, jury, and judge, has peremptorily exonerated her (exonerated his own *next boss* if she becomes President). “Durden,” at his famous “Zero Hedge” site, noted: “Here is the FBI itself, less than a year ago, charging one Bryan H. Nishimura, 50, of Folsom [California], who pleaded guilty to ‘unauthorized removal and retention of classified materials’ without malicious intent, in other words precisely what the FBI alleges Hillary did (h/t@DavidSirota).” He linked to [this case](#). If that's not the spitting-image of what Clinton was investigated by the FBI for, then nothing is — but Nishimura did far less of that crime than Clinton did — and yet he was sentenced “to two years of probation, a \$7,500 fine, and forfeiture of personal media containing classified materials. Nishimura was further ordered to surrender any currently held security clearance and to never again seek such a clearance.” As America's President, Ms. Clinton wouldn't even qualify to receive the CIA's daily national security brief. But, according to Mr. Comey, “no reasonable prosecutor would bring such a case.” He simply lied.

Furthermore, even *before* Comey had announced Clinton's exoneration, Josh Gersten at Politico had already headlined on 27 May 2016, [“Sub sailor's photo case draws comparisons](#)

[to Clinton emails](#)”, and he reported that, “A Navy sailor entered a guilty plea Friday in a classified information mishandling case that critics charge illustrates a double standard between the treatment of low-ranking government employees and top officials like former Secretary of State Hillary Clinton and ex-CIA Director David Petraeus. ... To some, the comparison to Clinton’s case may appear strained. Clinton has said none of the information on her server was marked classified at the time. In many cases, it was marked as unclassified when sent to her by people in the State Department more familiar with the issues involved.”

However, even Mr. Comey noted in his statement of exoneration of Ms. Clinton, that, among the tens of thousands of Clinton’s emails that were able to be recovered after she had tried to destroy them all, were the following:

“Eight of those chains contained information that was Top Secret at the time they were sent; 36 chains contained Secret information at the time; and eight contained Confidential information, which is the lowest level of classification.

Separate from those, about 2,000 additional e-mails were ‘up-classified’ [by the State Department during its reconstruction of her email record] to make them Confidential; the information in those had not been classified at the time the e-mails were sent.”

Some of the emails that Clinton had tried to destroy had, in fact, been marked “Confidential,” “Secret,” and even “Top Secret.”

Consequently, when Politico’s reporter, Mr. Gersten, exonerated Clinton by saying (and leaving it at that), “*Clinton has said none of the information on her server was marked classified at the time. In many cases, it was marked as unclassified when sent to her by people in the State Department more familiar with the issues involved,*” he was quoting (without even *challenging*) a liar. That standard (Hillary’s having been sending and receiving information that was classified at the time) was reported by Mr. Comey to have *actually been met*, for her prosecution — Comey simply chose to deny that reality, by then saying, “no reasonable prosecutor would bring such a case.” He undeniably lied.

On July 6th (the same day as the report from “Tyler Durden”), the Hillary Clinton propaganda-site Slate headlined, from their Fred Kaplan, [“The Hillary Clinton Email Scandal Was Totally Overblown](#): We learned nothing new from the investigation or James Comey’s statement.” He wrote:

“Did she commit a crime? Would anyone else — a lower-ranking official, someone who’s not a presidential candidate, someone who’s not named Clinton — have been charged with a crime? Absolutely not. And Comey said as much. ‘Our judgment,’ he said, ‘is that no reasonable prosecutor would bring such a case.’ In the annals of the Justice Department’s history, he went on, ‘we cannot find a case that would support bringing criminal charges on these facts’.”

That type of ‘reporting’ is called stenographic ‘journalism’: it’s exactly what America’s press did with regard to ‘Saddam’s WMD,’ for which fabricated reason we invaded Iraq in 2003. Stenographic ‘journalism’ is *still* the U.S. norm. The American press hasn’t changed since then.

On July 9th, Salon bannered [“DOJ veterans weigh in on FBI Director James Comey’s handling of Clinton email probe”](#), and reported many serious irregularities — and false assertions by Comey — in the FBI Director’s handling of this matter.

However, the huge scandal of the FBI’s handling of this matter goes far deeper than any of this, because the real mega-scandal here is that the FBI were extremely selective in regards to what federal criminal laws they would investigate her for having possibly broken. There are at least six federal criminal laws which accurately and unquestionably describe even what Ms. Clinton has now publicly admitted having done by her privatized email system, and intent isn’t even mentioned in most of them nor necessary in order for her to be convicted — the *actions themselves* convict her, and the only relevance that *intent* might have, regarding any of these laws, would be in determining how long her prison sentence would be.

**I have already presented [the texts of these six laws](#) (and you can see the sentences for each one, right there), and any reader can easily recognize that each one of them describes, without any doubt, what she *now admits having done*.** Most of these crimes don’t require any intent in order to convict (and the ones that do require intent are only “knowingly ... conceals,” or else “with the intent to impair the object’s ... use in an official proceeding,” both of which “intents” would be easy to prove on the basis of what has already been made public — but others of these laws don’t require even that); and none of them requires any classified information to have been involved, at all. It’s just not an issue in these laws. Thus, conviction under them is far easier. If a prosecutor is really seeking to convict someone, he’ll be aiming to get indictments on the easiest-to-prove charges, first. That also presents for the prosecutor the strongest position in the event of an eventual plea-bargain. As [Alan Dershowitz said](#), commenting on one famous prosecution: “They also wanted a slam-dunk case. They wanted the strongest possible case.” Comey didn’t. His presentation was simply a brazen hoax by him. That’s all.

That’s the real scandal, and nobody has been writing about it as what it is — a hoax. But what it shows is that maybe the only way that Clinton will be able to avoid going to prison is by her going to the White House. Either she gets a term in the White House, or else she gets a (much longer) term in prison — or else our government is so thoroughly corrupt that she remains free as a private citizen and still above the law, even though *not* serving as a federal official.

If Donald Trump doesn’t soon start talking about each one of those six laws, then his supporters should be asking him whether he himself is hiding something, because those six laws make crystal-clear that Hillary Clinton committed serious crimes, such that, even if she is convicted *only* on these six slam-dunk statutes (and on none other, including not on the ones that Comey was referring to), she could be sentenced to a maximum of 73 years in prison:

(73=5+5+20+20+3+10+10).

Add on others she might also have committed (such as the ones that Comey was referring to, all of which pertain only to the handling of classified information), and her term in prison might be lengthier still.

Motive is important in Ms. Clinton’s email case, because motive tells us why she was trying to hide from historians and from the public her operations as the U.S. Secretary of State:

was it because she didn't want them to know that she was selling to the Saudis and her other friends the U.S. State Department's policies in return for their million-dollar-plus donations to the [Clinton Foundation](#), and maybe even selling to them (and/or their cronies) U.S. government contracts, or why? However, those are questions regarding other crimes that she might have been perpetrating while in public office, not the crimes of her privatized email operation itself; and those other crimes (whatever they might have been) would have been explored only after an indictment on the slam-dunks, and for further possible prosecutions, if President Obama's people were serious about investigating her. They weren't. Clearly, this is selective 'justice'.

So: the basic question here is: Is this a [democracy](#), at all? Or, are some people just [brazenly above the law?](#)

The character and content of this country are at stake here. This issue is important not only as substance, but as symbolism. Of course, that's also true with *any* criminal conviction or refusal even to prosecute; but, in Clinton's email case, the symbolism is simply enormous: it's a bold statement, to the entire world, about today's America, and about whether this government's routine pontifications, regarding *other* nations' not being "democratic," are little — if at all — more than a very black pot deriding some kettle for not being sufficiently white. A [crony-capitalist country](#) is in no moral position to dictate *anything* to the rest of the world. Hiding [what it is](#) (a foul oligarchy), only makes what it is, even *worse*, and more dangerous. Its allies — in NATO, the EU, and elsewhere — are then members of an international gang, which has no justifiable reason even to exist, and which is incredibly harmful not only to their own people, but to all nations. And, if the *next* U.S. President refuses to prosecute this case, then the continuation of hiding it, the continuation of that *cover-up*, will not only be blatant; it will show, to the entire world, that nothing short of a revolution can rectify the situation in America. If this country is that crooked at the top, what can it be down below?

*Investigative historian **Eric Zuesse** is the author, most recently, of [They're Not Even Close: The Democratic vs. Republican Economic Records, 1910-2010](#), and of [CHRIST'S VENTRILOQUISTS: The Event that Created Christianity](#).*

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