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 **FBI DIRECTOR
JAMES COMEY:
IS HE DUMB
LIKE A FOX?
YOU DECIDE!**

By Stephen L. Bakke  July 26, 2016



*Brer Fox – From Disney's "Song of the South."
He was clever – until he met Brer Rabbit, anyway!*

(Thanks to several of you who provided opinions and information that were instrumental in developing the following "theory." You may even recognize some of your ideas!)

My Official First Reaction

In order to try to dissuade at least some of my friends who might come at me with pitchforks after reading this, let me stipulate for the record my official initial opinion. I still haven't rejected it as perhaps the best position to take. I've just become convinced there's an alternate universe to explore.

I was glad FBI Director James Comey disclosed, in great detail, his findings about Hillary's emails. At least that made the public aware of all the incriminating details. However, I didn't initially think he should have made public his recommendations for prosecuting the case. While it was expected no prosecution would be made, if he remained personally silent on the issue, any subsequent scorn would be directed at Attorney General Loretta Lynch.

Alternatively, Comey could have publicly given a recommendation to proceed with prosecution – something many of us had hoped for. Given Lynch's delicate political situation at the time (meeting with "Slick Willy," etc.), she could well have turned it over to the Justice Department staff with the Director's recommendation. **But then what?**

But then what? That's the important question!

It seemed to me at the time that Comey provided very extensive incriminating facts about the Hillary/email investigation, but then used tortured logic in recommending against prosecution. As I watched the presentation and subsequent press coverage, I imagined I must be missing something. He's too sharp to make such a big mistake! Finally, I asked: It may have seemed like a mistake, but was it actually part of a complex plan?

I've subsequently reviewed much critical commentary, and also information about the history of applying the law regulating and protecting secret government information. And I reviewed personal support provided to the Director by others who've worked in the Justice Department or studied this case. Maybe Comey didn't actually "fall on his sword" for the Clintons. Let me line up some information for you to consider.

What logic was involved if this wasn't a Hillary Clinton Bailout?

Could the following have been on Comey's mind as the Hillary/email investigation developed?

- As Comey considered his plan for detailed evidential disclosure, along with a recommendation NOT to prosecute, he certainly knew that strategy would be controversial.

- The resulting uproar would draw attention to all that was going on, which could make his ultimate goal easier to achieve.
- If the justice department were simply given his investigative evidence without any recommendation at all, that might be the last anybody ever heard of it.
- If he were to publicly recommend that charges be brought, Attorney General Lynch would (as promised) pass that along to the Justice Department staff for consideration.
- Comey knew the staff would have discretion over whether charges would ultimately be pursued.
- He was familiar with the history of legal decisions and policies regarding safekeeping the U.S. government's secret information.
- The law governing the case being considered against Hillary Clinton does NOT require intent, but Comey still referred to the fact that no reasonable prosecutor would pursue it. That sounded like a contradiction. But there's more to consider here.

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- Some experts, including a former Justice department official in charge of this type of case, John L. Martin, believes no jury would convict without proof of intent – in spite of the fact that intent wasn't required by law. Why would a prosecutor waste time with that as the likely outcome?
- That's why, while Martin was in the Justice Department, he almost always referred these cases back to the relevant agency for administrative disciplinary action. He was usually doubtful he could get a jury conviction.
- Comey's knowledge of this history could have led him to take the curious strategy we observed.
- If he were to decide on the unconventional disclosure of investigative facts in a press conference, and then again in sworn testimony to Congress, still without recommending prosecution, he probably knew he would be submitting himself to criticism.
- Nevertheless, he probably felt he could still accomplish something – i.e. the gruesome truth would be public forever – hiding it would no longer be possible. But then what?
- He obviously could be confident Congress would take note of the overwhelming facts he presented.
- And I believe Comey anticipated the Committee would ask him to investigate further whether Hillary had given testimony to Congress which conflicted with answers the FBI was given or in conflict with the facts as he knew them.
- That's what happened. The Congressional committee before which he testified made a request for further investigation into whether Hillary's Congressional testimony conflicted with what she told the FBI.
- The critical question was: Did Hillary lie either to Congress or the FBI? A finding that she was guilty of this would be devastating for her.

- Regarding the last item, he could have performed that investigation on his own, without it being officially requested, but he would have been criticized for doing so – a distraction from accomplishing his ultimate goal.

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Satisfying Conclusion!

So, what did Comey accomplish? He disclosed overwhelming evidence of gross negligence in handling classified information. In doing so he has given Americans ample reasons not to elect Hillary. He chose to seek justice regarding Hillary’s transgressions in the only way he could – even though he risked suffering, at least temporarily, a stained reputation.

Given this reasoning, I believe he chose not to take a chance on prosecuting Hillary. That wasn’t likely to occur in any case. Rather, he was hoping for the request from Congress for an expanded investigation, and with that he was successful. Using reasoning similar to mine, Washington Times Reporter Ronald Kessler believes “the FBI Director vindicated all those who believed from the outset in his integrity.” Former Justice Department prosecutor John L. Martin describes Mr. Comey’s decision and handling of the case “brilliant and courageous.”

While unselfishly accepting severe criticism, as well as suffering serious sacrifice to his reputation, I think it’s possible he’s outsmarted them all? I believe my conclusion is more than just wishful thinking. But whatever plays out, we’ll never know for sure. **I’m only asking that you consider what I’ve presented as a real possibility.**

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