

The 500-Page Inspector General's Report In 900 Words



The FBI seal. JOSE LUIS MAGANA / AP

The long-awaited report by the Justice Department's inspector general examining the department's conduct in the Hillary Clinton email investigation came out on Thursday, and, if nothing else, it's exhaustive. At more than 500 pages, it carefully and meticulously unpacks how organizations and individuals acquitted themselves before and after the 2016 election. Of course, very quickly, much of the nuance was stripped out; interested parties — President Trump, his supporters, former FBI Director James Comey — all found in the report plenty of ammunition to load the gun they were already holding. Cherry-picking aside, however, the report did come to some conclusions.

So let's look at the legal, policy and political implications of the report but also try to keep the nuance while losing some of the complexity (and adding some brevity). Here are four key takeaways from those 500+ pages in about 900 words. (Note: The report is overwhelmingly about the Justice Department's and the FBI's

conduct in the Clinton email probe, *not* the investigations surrounding Trump or his campaign's alleged connections to Russia. Inspector General Michael Horowitz is now looking into elements of the Trump investigation.)

1. Comey looks bad procedurally but *not* legally

The report is most conclusive on two issues: the conduct of Comey and former Attorney General Loretta Lynch, and the Justice Department's decision not to charge Clinton with any crime as part of its investigation into her use of a private email server. Let's take those in reverse order.

The report does not directly affirm the decision not to charge Clinton,¹ but it does say that it was *not* motivated by any kind of improper political bias among Justice Department officials. That squarely rebuts Trump's suggestion that Justice Department and FBI officials like Comey were soft in pursuing allegations against Clinton for political reasons.

At the same time, the report comes down hard on Comey in two areas. First, it suggests that the process that led to the director's public comments on the Clinton email case in July 2016 (slamming Clinton's email use but saying that it was not a crime) and October 2016 (announcing that the investigation would be re-opened because of some emails found on the computer of Anthony Weiner, the husband of top Clinton aide Huma Abedin) were problematic. Making those comments without consulting Lynch and other top Justice Department officials was outside of department norms, the report concludes. Secondly, the report says that Comey himself was using a personal email account to conduct some government business, both violating department protocol and taking what appears to be a hypocritical action, considering that the Clinton probe in part involved her use of non-government email when she was secretary of state.

Finally, Lynch is criticized for her handling of a June 2016 tarmac meeting with former President Bill Clinton; the inspector general suggests that she should have avoided it (although the report concludes that Lynch and Clinton did not discuss the email investigation). The inspector general also found that Lynch did not adequately manage Comey and the investigation; as Lawfare put it, the report found that "at key moments, the problem was not that Comey chose to disobey direct orders but, rather, that he did not have any direct orders to obey."

2. The FBI looks bad politically but *not* legally

Remember, this was largely a probe of how the FBI handled the Clinton investigation, not the Trump one. That said, the report highlights some problematic behavior by FBI officials that could hurt the bureau's credibility in the Russia probe. It has long been known that two FBI officials, Lisa Page and Peter Strzok, sent some anti-Trump text messages to each other in 2016. This was significant because Page was on the team investigating Clinton and (later) the Trump-Russia probe, which Strzok was leading for a time.²

The IG report includes a previously unknown text-message exchange between the two that has already become political fodder for the right. In a message on Aug. 8, 2016, Page wrote, "[Trump's] not ever going to become president, right? Right?!" And Strzok responded, "No. No he's not. We'll stop it."

Strzok told investigators that he did not mean he would use the investigation to block Trump from winning, but rather that he was trying to assure Page that Trump would not win. And overall, as noted above, the inspector general did not conclude that the Justice Department's probe was biased toward helping Clinton or hurting Trump. So, on substance, the investigation's integrity was reaffirmed, but that won't prevent Trump from using that text message to argue that it wasn't.

That and the damage this report does to Comey's reputation will help Trump in continuing to cast the former FBI chief as a villain and the FBI as tarnished. But that's a question of politics, not substance.

3. The report is vindication for Clinton

The report all but says that Comey was wrong to go public in the ways he did in the Clinton investigation in 2016. This is basically what Clinton has long argued. The report also basically confirms that she should not have been charged with any crime for email use. Of course, that doesn't undo Comey's actions, which may have cost Clinton the election. But still.

4. The report doesn't mean much for the Russia probe — and that's what really matters now

The inspector general's report doesn't undermine the Russia investigation — not

on substance, at least. Strzok was removed last summer from the Russia team, which by then was being led by special counsel Robert Mueller, in part because of the discovery of some of these text messages. So Strzok wasn't a big part of the string of indictments that Mueller made over the last year. And little in the inspector general's report focuses specifically on Mueller, in part because this is largely a report about Justice Department actions during 2016, well before the special counsel was appointed.

Comey could be a witness in an obstruction of justice charge against Trump that stems from the president's dismissal of the FBI director in what Trump suggested was a move to end the Russia investigation. And perhaps this report dings Comey's credibility. But I doubt that Mueller will push an obstruction charge based solely on the words of Comey. And the inspector general, if anything, was attacking Comey for being too candid.

We already knew that legal experts found Comey's moves in 2016 to be kind of dumb and that some FBI agents had a low opinion of Trump. So while the inspector general's report is important and newsworthy, it's not particularly surprising. And it doesn't really change anything right now. We are really still waiting on Mueller and what his investigation concludes.

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