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FBI's Clinton decision proves rules don't apply to rich and powerful

By [Chuck Hobbs](#), contributor

As I sat in my law office watching CNN's coverage of FBI Director James Comey's statement, where he outlined his department's much-awaited decision regarding the **Hillary Clinton** email scandal and all but concluded that Clinton had broken the law but would not be indicted, his words merely confirmed what I have always known as a former prosecutor and a current criminal defense attorney: Our nation maintains a separate and unequal criminal justice system that is stratified according to wealth and power.

Now, in full disclosure, before you think that this is a Clinton-bashing article, I endorsed Clinton for president last month after it was clear that my preferred candidate, Sen. **Bernie Sanders** (Vt.), had been defeated in the Democratic primary. As such, my analysis of this issue has less to do with my personal politics and more to do with concerns I share with millions of Americans that the justice system is entirely corrupt.

Earlier this year in this space, I chronicled the history of presidential orders regarding classified information, a practice first begun under President Franklin Roosevelt and continued by each of his successors. In 2009, President Obama issued Executive Order 13526, one that proscribed penalties for mishandling such information. To be clear, there is no dispute that then-Secretary of State Clinton acknowledged, by signing a nondisclosure agreement, the rules governing the knowing or negligent mishandling of classified information. Nevertheless, Clinton used a private email account and home-brew server located in her New York state home to conduct official business while serving as secretary of State.

With Comey indicating that over 100 emails analyzed by his agents contained some level of classified information, and with him further indicating that Clinton used her private servers in areas where "hostile actors" could have easily accessed her account, as a former prosecutor, I would think that a prosecution should be forthcoming; such would be the logical conclusion considering the facts that Clinton agreed not to break the law and that she broke the law either knowingly or negligently.

Comey's comments constitute a form of legal sophistry in that prosecutors did not need to prove that Clinton intended to commit a criminal act. Comey and staunch Clinton apologists keep providing cover by adding that element — intent — that simply is not needed. Indeed, under federal and state laws, negligence roughly means an "indifference" or careless attitude toward the proscribed conduct and with Comey calling the conduct "extremely careless," an argument can be made that Clinton was grossly negligent in her acts.

But the fact that no prosecution is pending this day is so not because Clinton was right or has been vindicated, but because the Washington elites in both major political parties protect their own. Generally, I am not prone to conspiracy theories, but I do not find it coincidental that last week, former President **Bill Clinton** just happened to force a meeting with Attorney General Loretta Lynch — in private — on an airport tarmac in Arizona only days before Lynch's employee, James Comey, announces his recommendation that no charges should be pursued. Or that on the same day that Comey announces his decision, that his big boss — President Obama — just happens to be campaigning with Clinton in Charlotte, North Carolina.

But even if each of the above were coincidental, we cannot ignore that any other career Foreign Service officer or governmental official with security clearances would have been charged with a criminal offense, fired or both. Most would have faced arrest and indictment by federal agents and prosecutors, not a public press conference where the head of the FBI makes arguments usually proffered by defense counsel that has been retained at great expense by the accused. If for no other reason, this is disconcerting because the only thing that keeps our nation of laws intact is belief that no person is above the law. But since the two major parties' presumptive candidates — Democrat Hillary Clinton and Republican **Donald Trump** — both have skeletons in their closets, ranging from public corruption to marital assault, and with neither ever having had to endure a peregrination through the justice system at any point in their adult lives, it becomes more obvious than ever that the rich and powerful seem to know instinctively that when accused of wrongdoing, absolutely nothing will come of it, no matter how serious the allegations.

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