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Why Ethics Complaints Against Halligan Face 'Very High Bar'

By **Phillip Bantz**

Law360 (October 16, 2025, 10:57 PM EDT) -- Interim U.S. Attorney Lindsey Halligan for the Eastern District of Virginia could face bar disciplinary action or court sanctions if the prosecutions she's pursuing at President Donald Trump's behest are found to be politically motivated or baseless, although proving ethics allegations will be an uphill battle, experts say.

Three former White House ethics attorneys who served under Republican and Democratic presidents have raised alarms in **complaints** with the U.S. Department of Justice and Congress seeking investigations into Halligan's alleged "vindictive and meritless" prosecutions of ex-FBI Director James Comey and New York Attorney General Letitia James. Both have denied wrongdoing and say the charges are politically motivated.

Former Trump adviser John Bolton, who has publicly criticized the president, was indicted Thursday by a federal grand jury in Maryland on 18 counts alleging he mishandled classified national defense information. Halligan is not prosecuting that case.

Halligan, an insurance lawyer who had no prosecutorial experience before Trump picked her for her current role, also could be the subject of ethics complaints filed with the Florida Bar, where she's licensed, potentially resulting in disciplinary action from the state's Supreme Court. Anyone can file a complaint with the bar against a lawyer.

"It is entirely possible that the letters to Congress, and the Comey prosecution itself, will become the subject of future investigative hearings. At a minimum, that would expose Halligan to ignominy and scorn," Harry Litman, a former deputy assistant U.S. attorney general and U.S. attorney for the Western District of Pennsylvania, wrote in an Oct. 1 Substack post.

"But her far greater risk lies with her licensing bar in Florida," he stated. That's because the Justice Department's Office of Inspector General, which investigates DOJ lawyers and others in the department, has been "gutted" under Trump, according to Litman.

If the cases against Comey and James fail, Halligan could be found in violation of multiple Florida Bar disciplinary rules, including Rule 4-3.8, which says a prosecutor in a criminal case "must refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause."

"That's probably the biggest one looming out there, but there are others," John Browning, a retired Texas Fifth Court of Appeals justice and legal ethics scholar at Faulkner University's Thomas Goode Jones School of Law, told Law360.

The cases against Comey and James are in the early stages, and it's unclear how the facts in each might develop, but some experts have expressed concerns that the indictments appear thin.

"It's very clear to me that Halligan is engaging in a conflict of interests by her conduct in these cases," Pace University law professor Bennett Gershman, an expert on constitutional law and prosecutorial misconduct, told Law360. He formerly served as a prosecutor for the Manhattan District Attorney's Office.

"She's carrying out Trump's demand to get these indictments," Gershman added.

Asked to comment on the allegations of prosecutorial misconduct, a DOJ spokesperson told Law360 that Halligan "is an outstanding and ethical attorney who is working tirelessly to uphold the rule of law, and she has the full support of the AG, DAG, and the entire team at Main Justice," referring to U.S. Attorney General Pam Bondi and her deputy Todd Blanche.

The allegations against Halligan are "pure political nonsense and ridiculous rhetoric," according to John F. Lauro of Lauro & Singer. He served on Trump's defense team in the 2020 criminal election subversion case.

"A grand jury indicted these two individuals. There's no basis to accuse a prosecutor of prosecutorial misconduct without knowing the full record, without hearing the evidence and without having access to the grand jury testimony," Lauro told Law360.

"Bar membership should not be something that is used as a bludgeon for people who may disagree politically," he added.

'JUSTICE MUST BE SERVED, NOW!!!'

After months of investigation, Halligan's predecessor, Erik Siebert, said he was unable to find sufficient evidence to bring charges against Comey and James, resulting in Trump ousting him and bringing in Halligan. Trump then **directed** Bondi to work with Halligan to prosecute Comey, James and U.S. Sen. Adam Schiff. Schiff has not yet been charged with a crime.

"Lindsey Halligan is a really good lawyer, and likes you, a lot," Trump wrote in his Sept. 20 message to Bondi on Truth Social. "We can't delay any longer, it's killing our reputation and credibility. They impeached me twice, and indicted me (5 times!), OVER NOTHING. JUSTICE MUST BE SERVED, NOW!!!"

Florida Bar Rule 4-3.6 requires a lawyer to "exercise reasonable care to prevent investigators, employees or other persons assisting in or associated with a case from making extrajudicial statements" about a case "if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing" the case.

"If a lawyer, such as Ms. Halligan, is aware that statements from President Trump will have a substantial likelihood of prejudicing a proceeding, she has to take certain steps to keep that from happening," Browning said.

"But the horse is out, and it's a little late to lock the barn door," he added.

Halligan secured Comey's indictment five days after Trump issued his directive. She did so alone, with no line prosecutors signing on with her, which experts say is unusual and signals she lacked the support of her office in bringing the case.

A pair of line prosecutors from the Eastern District of North Carolina have since been brought in to help Halligan prosecute Comey in Virginia. Halligan was listed as the sole prosecutor on James' case as of Thursday.

The grand jury vote in Comey's case was close — 14 of the 23 jurors voted to indict on two counts, making a false statement to Congress and obstructing a congressional proceeding, but rejected an additional count of making a false statement. A judge in the case publicly announced the vote in court.

Comey's indictment is vague to the point that experts **told Law360** that it's unclear what the government alleges he did to break the law. The government attempted to limit Comey's access to discovery in the case, but a federal judge on Monday **rejected** the move for being "overbroad."

The vote in James' indictment on Oct. 9 is not known. She is charged with one count each of bank fraud and making false statements to a financial institution. She is accused of renting out a residence in Norfolk, Virginia, after signing loan paperwork in 2020 stating that the property would be her secondary residence and would not be used as a rental.

James' great-niece, Nakia Thompson, testified to a grand jury that she lived in the house in question for years and did not pay rent, The New York Times reported.

'Cases Are Very Difficult To Make'

Despite the potential weaknesses in both cases, the fact that Halligan secured the indictments helps to insulate her, at this point, from allegations that she knowingly violated the professional conduct rule that bars prosecutors from pursuing charges they know are not supported by probable cause.

"The grand juries found sufficient evidence to indict," Gershman said. "That removes the allegation that she violated that particular ethics rule."

But if either of the cases are ultimately tossed for lack of probable cause, vindictive or selective prosecution, or because the grand juries were misled, Halligan could face professional repercussions, including court sanctions or bar discipline, some experts say.

Comey plans to **challenge** the legitimacy of Halligan's appointment and move to have the case dismissed for vindictive prosecution, according to his attorney, Patrick Fitzgerald, a former U.S. attorney for the Northern District of Illinois known for his aggressive prosecution of political corruption.

Halligan's appointment coupled with Trump's public statements, including his post directing the Justice Department to go after his foes, and the timing of the indictments of Comey and James are circumstantial evidence that could be used to bolster claims of vindictive prosecution, according to experts.

"You can't read anyone's mind, but you can show that circumstantially," Gershman said.

The misconduct claims might gather strength against Halligan and other prosecutors if the Justice Department brings flimsy charges against other Trump foes, said Kevin O'Brien, a white collar partner at Ford O'Brien Landy LLP and a former federal prosecutor in Brooklyn.

"This is going to get worse with each new case, because it establishes a pattern," he told Law360. "Once might be a mistake. But the third time, fourth time — we're talking about a systemic effort to punish the people [Trump] perceives to be his enemies."

Courts, however, don't often sanction prosecutors for bringing weak cases that get dismissed, as the "result of the case being thrown out is probably going to be viewed as punishment enough," according to Browning.

Proving prosecutorial misconduct in a civil suit or before a bar disciplinary board also can be a steep climb, because "you have to show that a prosecutor knowingly violated the rules," Gershman said.

"The cases are very difficult to make," he added. "It takes a lot of time and resources. It's a very high bar."

Several groups, including the Democracy Defenders Fund — the bipartisan trio of White House ethics counsel who have called for congressional and Justice Department probes of Halligan are members — sought to force the Florida Bar to investigate Bondi over alleged unethical conduct.

The Florida Supreme Court **threw out** the effort Monday in a brief order finding a failure "to show a clear legal right to the relief requested."

--Additional reporting by Jack Karp, Jared Foretek and Madison Arnold. Editing by Janice Carter Brown.