

10 Questions That ABC Didn't Ask Comey

RCP realclearpolitics.com/articles/2018/04/17/10_questions_that_abc_didnt_ask_comey_136825.html

COMMENTARY



Ralph Alswang/ABC via AP

On Sunday evening, ABC preempted its regularly scheduled programming to broadcast an exclusive interview conducted by “This Week” host George Stephanopoulos with former FBI Director James Comey. The star treatment is part of an all-out publicity campaign that Comey, fired by President Trump less than one year ago, has launched to promote his new book, “A Higher Loyalty: Truth, Lies, and Leadership.” How Comey’s portrayal of himself as a virtuous man selflessly devoted to the public interest fits with his rush to cash in on public service by disclosing details of his relationship with a sitting president is one of the salient questions Stephanopoulos failed to pose Sunday night.

ABC’s chief political anchor did elicit from Comey a variety of denunciations of Trump. They were newsworthy but no surprise. Was anyone caught off guard, for example, when the disgruntled former employee who has traded barbs with the president on Twitter likened him to a New York City mob boss?

It was also, alas, no surprise that Stephanopoulos failed to ask Comey many questions that touch on eminently newsworthy issues and directly address the rule of law and the integrity of law enforcement agencies to which Comey proclaims devotion.

Here are 10:

- 1) In December 2003, you were deputy attorney general. When then-Attorney General John Ashcroft recused himself, it fell to you to determine whether to appoint a special counsel to investigate the leak, in spring of that year, of Valerie Plame's CIA employment. You named your good friend (and godfather to your daughter) Patrick Fitzgerald, who conducted a long, drawn-out investigation that resulted in the 2007 conviction of Vice President Dick Cheney's former chief of staff, Scooter Libby (pardoned by President Trump on Friday) for obstruction of justice, making a false statement, and perjury — but not for leaking Plame's employment. Indeed, by early autumn 2003 — a few months before you appointed Fitzgerald — Deputy Secretary of State Richard Armitage had informed the FBI that he leaked Plame's employment. By that time, the CIA had determined that the leak did not harm national security. If, as acting attorney general, you were aware in December 2003 of the leaker's identity and that the leak had not harmed national security, why did you appoint a special counsel?
- 2) If you were unaware of that information when you appointed Fitzgerald, why were you in the dark on facts established by law enforcement and intelligence that were vitally relevant to so grave a matter?
- 3) Fitzgerald chose not to pursue charges against the actual leaker, Richard Armitage. Is it fair to infer that leaking Plame's identity was not a crime and to wonder why you allowed Fitzgerald to devote several years to investigating a non-crime that had already been solved and that had no impact on national security?
- 4) In 2015, Fitzgerald's star prosecution witness, journalist Judith Miller, recanted. Miller claimed that Fitzgerald induced her to give false testimony by withholding crucial information. Did this dramatic development give you reason to reconsider your judgment in enabling Fitzgerald to prosecute "perjury-trap" crimes created by his investigation?
- 5) Last week, at the behest of Special Counsel Robert Mueller — who is investigating allegations that individuals associated with the Trump campaign cooperated with Russians to interfere in the 2016 election — federal agents raided the offices and hotel room of Trump's personal lawyer Michael Cohen. They were reportedly in search of evidence concerning Cohen's payment of hush money to women with whom Trump allegedly had consensual sex more than a decade ago, and other possible crimes. Last summer, Mueller ordered a guns-drawn raid of former Trump campaign manager Paul Manafort's home for crimes unconnected to Russian collusion. In the case of the Hillary Clinton email investigation, however, the Department of Justice and the FBI proceeded gingerly. Although Clinton's use

of a private email server to conduct State Department business likely exposed highly classified information to foreign intelligence services, the Department of Justice declined to impanel a grand jury and offered generous immunity agreements, while the FBI, which you supervised, stood by and did nothing about the Clinton team's destruction of evidence — computers, phones, tens of thousands of emails. How do you explain the disparity between the FBI's hardball investigation of a Republican president and kid-glove investigation of a Democratic candidate for president?

6) In July 2016, in unprecedented defiance of well-established practice that assigns the FBI responsibility for investigating crimes and the Department of Justice responsibility for making prosecution decisions, you publicly announced that “no reasonable prosecutor” would bring a case against Clinton. Several distinguished and apparently reasonable former prosecutors promptly contradicted you. Did you overstate your case?

7) In your July 2016 statement, you acknowledged that Clinton and her colleagues were “extremely careless in their handling of very sensitive, highly classified information.” How does that differ from the “grossly negligent” mishandling of classified information that the law regards as a criminal act?

8) You state that you “don't know” whether the Christopher Steele dossier is a “credible document.” Yet it appears to have played a substantial role in the FBI's obtaining a warrant from the Foreign Intelligence Surveillance Court in October 2016 targeting former Trump campaign adviser Carter Page. Did the FBI inform the court that the Steele dossier's allegations were unverified, and why would the FBI ever use unverified information to secure authority to surveil an American citizen?

9) According to a just-released Department of Justice Inspector General's report, in October 2016 your then-deputy, Andrew McCabe, improperly authorized disclosure of self-serving information to the Wall Street Journal and then under oath denied having done so. Also on your watch, FBI counterintelligence agent Peter Strzok, who took a leading role in both the Clinton and Trump investigations, conducted an illicit affair with FBI lawyer Lisa Page, and throughout 2016 the lovers exchanged pro-Clinton and anti-Trump text messages on FBI devices. When informed, Mueller quietly removed them from his team. Does this litany of misconduct represent a breakdown in professional law enforcement under your leadership?

10) In May 2017, in apparent conflict with FBI policy, you leaked memos dealing with your private conversations with the president about FBI investigations. One of those memos may have contained classified material. Did you flout FBI policy and, if so, what message does your breach send to rank-and-file FBI agents and ordinary law-abiding citizens?

Perhaps Comey answers some of these questions in “A Higher Loyalty,” which is being released to the public Tuesday.

Perhaps some answers will be furnished by the soon-to-be-released larger report from Department of Justice Inspector General Michael Horowitz on the government's handling of the Clinton email investigation; by U.S. attorney for Utah John Huber's investigation into alleged abuses at the FBI and the Department of Justice concerning both the Clinton email investigation and Trump collusion investigation; and by the probes undertaken by the House Intelligence Committee chaired by Rep. Devin Nunes and by the Senate Judiciary Committee led by Sen. Charles Grassley.

And maybe, just maybe, some answers — particularly those about Scooter Libby, which do not fall under the purview of the government investigations — will be pursued by those increasingly rare journalists devoted to understanding the rule of law and to reporting rigorously on our law enforcement agencies.

Peter Berkowitz is the Tad and Dianne Taube senior fellow at the Hoover Institution, Stanford University. His writings are posted at PeterBerkowitz.com and he can be followed on Twitter @BerkowitzPeter. He is also a member of the State Department's Policy Planning Staff. The views expressed are his own and do not necessarily reflect those of the United States government.