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## Roy Cohn's America: Conservatism, Sexual Politics, and Memory in the 21st Century

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## Roy Cohn's America: Conservatism, Sexual Politics, and Memory in the 21st Century

### Cover Page Footnote

Emily Sharp is a recent graduate of Emory University.

# Roy Cohn's Influence on the Trump Administration

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## **Abstract**

Roy Cohn was and remains a controversial figure known for his staunch anti-subversive practices during the Second Red Scare, his involvement with some of New York's shadiest characters in business and politics as their legal representation, and for his sexuality and death due to AIDS complications. From the early 1970s until the mid-80s, Cohn served as the personal lawyer and mentor for real estate developer Donald Trump. In this role, Cohn helped shape how Trump perceived loyalty and his understanding of the legal system in America as a tool to use to his advantage. These, among others, are learned behaviors that Donald Trump has carried with him to the White House where they have become dominant traits of his administration.

*Keywords:* Roy Cohn, Donald Trump, Trump Administration, Loyalty, Anti-Communism, Joseph McCarthy, Mueller Investigation, USFL

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In 1973, the U.S. Department of Justice sued the New York-based real estate company Trump Management for discriminating against black individuals applying to live in their properties. The DOJ alleged that the organization—namely its CEO, Fred Trump, as well as his son and the organization's president, Donald—had violated the Fair Housing Act by requiring that a "C" be placed on all applications submitted by potential tenants of color to subsequently

reject them (Mahler and Eder). The younger Trump was unwilling to admit to wrongdoing even when all of the company's lawyers told him he had no defense against the charges. As such, he began to look elsewhere for guidance (Trump and Schwartz 68). Everyone in Manhattan in the 1970s knew of Roy Cohn and his reputation for ruthlessness, so when the real estate proprietor met the lawyer at the exclusive Le Club, Trump immediately began asking for legal advice. In response, Cohn told Trump that his company should tell the DOJ to go to hell and take *them* to court over the case. Trump hired Cohn immediately (68). The partnership proved to be influential in the young Trump's life as the way in which Cohn handled the DOJ's case taught the future U.S. president a critical "three-dimensional strategy, which was: 1. Never settle, never surrender. 2. Counter-attack, counter-sue immediately. 3. No matter what happens, no matter how deeply into the muck you get, claim victory and never admit defeat" (Brenner). Trump learned the first lesson that night in Le Club when Cohn vowed to never settle in court on Trump's behalf, and the second lesson soon after when the pair brought a defamation suit against the Department of Justice, claiming the case had hurt business by accusing the Trumps of racist practices (Zirin 28). Although unsuccessful, the attack muddied the DOJ's argument and enabled Cohn to teach Trump the third and final lesson: Trump claimed in *The Art of the Deal* that he did not like lawyers because "they are always looking to settle instead of fight... [and he would] rather fight than fold, because as soon as you fold once, you get the reputation of being a folder," yet Cohn and Trump ended up making a "minor settlement" in the DOJ case (Trump and Schwartz 68). However, the two touted the result as a success because Trump Management did not have to admit guilt for discriminating against potential tenants, taking away from the civil rights issue at the heart of the case (Trump and Schwartz 67). Liz Smith, an influential gossip

columnist and friend of Cohn's, once stated that "Donald lost his moral compass when he made an alliance with Roy Cohn"

(Brenner). Under Cohn's guidance, Trump learned the significance of and power in the ability to spin a narrative through relationships with journalists, amounting to manipulation of the press. It is clear that President Trump learned how to control a personal paradox into a public image of strength from his mentor Roy Cohn, and it is a lesson that has defined his presidency thus far.

As president, Donald Trump has displayed McCarthyist paranoid politics since the first days of his presidency. Accusations that Russia had interfered in the 2016 U.S. Election began almost immediately after Trump's victory and followed the president into his first term. Prior to the inauguration in early January 2017, the Intelligence Community Directors met with the president-elect in his residence in Trump Tower to discuss the information that had been gathered on Russia's activity. James Comey, then director of the Federal Bureau of Investigation, had acquired a dossier put together independently by a former MI6 agent, Christopher Steele. Comey requested a one-on-one session with the president following the large meeting to discuss the salacious information the Steele dossier contained in a more private setting (Comey 206). While the interaction was intended to communicate valuable information and assistance, Trump perceived the meeting as an affront to his legitimacy. Following the interaction, it became clear that the president considered Comey to be his enemy and his distrust prompted Comey to begin composing memos documenting his impressions of their interactions. Comey's second memo recorded a surprise February dinner between the two at the White House where:

At one point during the conversation, Trump stated that he needed loyalty and expected loyalty, and then later stated again "I need loyalty." Memo 2 reflects that the second time Trump stated his need for loyalty, Comey responded that the President would always get

honesty from Comey... Memo 2 also notes that it was possible that Comey and Trump “understood that phrase differently” but that Comey “decided it would not be productive to push the subject further.” (*Report of Investigation of Former Federal Bureau of Investigation Director*)

In fact, President Trump and Director Comey did understand the phrase differently and, when Comey would not pledge loyalty directly to Trump, Trump fired him.

The relationship between Director Comey and Trump stands in contrast to the current dynamic between the president and Attorney General William Barr. In two separate instances, Barr has proven that he is loyal directly to Trump and the president’s response has revealed that this is the relationship he expects from those who work for him. Following the 2016 election, U.S. intelligence bodies—along with the sources cited in the Steele dossier—had found that Russian operatives had communicated with members within both the Trump campaign and administration, which prompted calls to investigate the connections (Mazzetti and Benner). In May 2017, Deputy Attorney General Rod Rosenstein appointed former FBI Director Robert Mueller to head the investigation as special counsel. The Mueller investigation lasted for nearly two years, indicted thirty-four individuals, and resulted in a 448-page report divided into two volumes focused on the Trump’s campaign’s conspiracy with Russia and the Trump’s administration’s obstruction of justice, respectively. By the end of the investigation in 2019, Trump’s original attorney general had been replaced by William Barr who had served in the same role under President George H. W. Bush (Al Jazeera Staff). Preceding the release of Mueller’s report, Barr published his own four-page summary, glossing over much of the meticulously documented investigation and promoted a more favorable image of Trump than what the investigation found, which sparked concern that Barr was not working independently

from the president. Following the release of the summary, many reporters began to speculate that Barr had likely been picked by Trump to serve as Attorney General due to his authoring of an unsolicited memo criticizing the Mueller probe and calling for its end in 2018 (Al Jazeera Staff). Thus, when Barr released his summary of Mueller's report, his devotion to Trump over the Justice Department became shockingly clear and prompted Trump to claim that he should have initially hired Barr at the start of his administration (Ward).

The way in which President Trump has approached his relationships with Comey and Barr is reminiscent of the politics of paranoia enacted by Senator McCarthy: Comey is someone who ideologically differed from Trump and was therefore not to be trusted, whereas Barr has appeared to pledge loyalty to Trump much in the way federal employees did under President Harry Truman and how members of McCarthy's Subcommittee swore oaths to Roy Cohn (von Hoffman 223-4). However, McCarthy's crusade of anti-subversive fear was largely contrived as part of a public relations strategy used to bolster the career of an otherwise unspectacular senator. In contrast, Trump's erratic need for loyalty and protection against subversion appears sincerely held, which is due in large part to his connection to Cohn (210). As it was, Cohn always seemed to fear being undermined for anything he defined as a weakness and constantly sought loyalty from others as protection against any potential charge that could be brought against him. Loyalty was paramount to Roy Cohn and it was a trait he tried to instill in all of his proteges, not just in Trump. This lesson was especially clear during the Mueller investigation when one of Cohn's mentees, Roger Stone, was investigated for working with Julian Assange of WikiLeaks to publish Hillary Clinton's emails in an effort to smear her 2016 presidential campaign (*United States of America v. Roger Jason Stone, Jr., Defendant*). Stone has been a Trump associate since the two were introduced by Cohn in the early 1980s, and according to *New Yorker* writer Jeffrey

Toobin, “Stone created Donald Trump as a political figure. There is no doubt that in tone, in effect, in profile, the Trump Presidency was a pure Roger Stone production” (DiMauro et al.). Mueller’s team alleged that Stone worked closely with Assange to retrieve and release Clinton’s controversial emails through improper means and tried him for obstructing justice, making false statements to investigators, and tampering with witness testimony (Panetta and Sheth). The Department of Justice also found that there was frequent communication between Stone and an unnamed “high-ranking Trump Campaign official” regarding the timeline of the email’s publication, leaving little doubt that the technique was approved of by the Trump team to smear their opponent (*United States of America v. Roger Jason Stone, Jr., Defendant*). Although at that point in the campaign Stone was no longer an official member of Trump’s team, Stone refused to testify against the president before Mueller’s lawyers thus distancing Trump from the operation in an attempt to protect the president’s credibility. While there is no evidence that Trump asked Stone for his loyalty—nor if he would have had to—Trump has frequently sought to protect Stone from any legal ramifications for his actions on behalf of the Trump Administration, an act that suggests he may too feel some sense of loyalty to Cohn’s other notable mentee (Panetta and Sheth).

Trump began to call on Cohn and the loyalty rituals his name evoked following Mueller’s appointment, which Trump saw as the end of his presidency (*Report on the Investigation into Russian Interference in the 2016 Presidential Election*). It was as though he was seeking the same unwavering protection from those closest to him that Cohn had received in his lifetime. Volume II of Mueller’s report documents that on March 2, 2017, then-Attorney General Jeff Sessions recused himself from the Russia investigation following the revelation that he had met with the Russian ambassador to the U.S. twice, a fact that he had not previously disclosed



(Keneally). Upon being told this news, President Trump demanded to know “‘Where’s my Roy Cohn?’” (Schmidt). The following day, according to Volume II again, Trump began a meeting between advisors and legal counsel “by saying, ‘I don’t have a lawyer.’ The President expressed anger at [his lawyer Don McGahn] about the recusal and brought up Roy Cohn, stating that he wished Cohn was his attorney. McGahn interpreted this comment as directed at him, suggesting that Cohn would fight for the President whereas McGahn would not” (*Report on the Investigation into Russian Interference in the 2016 Presidential Election*).<sup>1</sup>

It is interesting that when demanding loyalty from those around him, President Trump called on Roy Cohn. In his 1987 book *The Art of the Deal*, Donald Trump recounts his relationship with Roy Cohn fondly and describes why he believes Cohn’s loyalty was his most admirable trait. Trump asks his readers to:

Just compare [Cohn] with all the hundreds of “respectable” guys who make careers out of boasting about their uncompromising integrity but have absolutely no loyalty. They think only about what’s best for them and don’t think twice about stabbing a friend in the back if the friend becomes a problem. What I liked most about Roy Cohn was that he would do just the opposite. Roy was the sort of guy who’d be there at your hospital bed, long after everyone else had bailed out, literally standing by you to the death. (Trump and Schwartz 69)

What could have been a warm recollection of an otherwise reviled figure is soured by the fact that Donald Trump “abandoned his lawyer when he found out that Cohn was HIV-positive... ‘As

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<sup>1</sup> The footnote at the end of Volume 2, page 50 of the report reads, “Cohn had previously served as a lawyer for the President during his career as a private businessman. [Rence] Priebus recalled that when the President talked about Cohn, he said Cohn would win cases for him that had no chance, and that Cohn had done incredible things for him. [Steve] Bannon recalled the President describing Cohn as a winner and a fixer, someone who got things done.” Trump also claimed, according to the report, that McGahn was not a real lawyer because he took notes and Cohn never took notes.

soon as he found out, he took all his cases away from Roy except for one and got new lawyers. After all they'd been through together” (Baram and Mayer). In 1986, Trump testified as a character witness on Cohn's behalf during the lawyer's disbarment hearings and hosted a grandiose party at the Mar-a-Lago resort celebrating Cohn's life, but the relationship the two once had was gone—while at one point in time Cohn had referred to his mentee and client as his best friend, he alleged cruelly that “Donald pisses ice water” after Trump deserted him (Brenner). Journalist Wayne Barrett reported that at Cohn's funeral, Trump “stood in the back of the room silently, not asked to be one of the several designated speakers, precisely because those closest to Cohn felt [Trump] had abandoned the man who had molded him” (Zirin 26). Regardless of his current relationship with Roger Stone, by deserting Cohn in the same way all of the hundreds of “respectable” guys did with their inconvenient friends, Donald Trump revealed that while loyalty may have been paramount to Roy Cohn, it certainly was not to him.

Prior to 2016, Roy Cohn was only infrequently mentioned by those attempting to understand candidate Trump's erratic demeanor on the campaign trail. Following Trump's victory, many journalists and pundits began searching for a way to decipher Trump's behavior as well as his appeal to voters. This led them to exhume Cohn's history and in doing so, the similarities between the two men have grown increasingly apparent; Cohn's final lover, Peter Fraser, recently analyzed Trump's mannerisms and noted that “that bravado, and if you say it aggressively and loudly enough... that's the way Roy used to operate... and Donald was certainly his apprentice” (24). One of the clearest examples of Cohn's influence on Trump is evident when revisiting the pair's last legal endeavor together before Trump abandoned his lawyer. The two sued the National Football League (NFL) on behalf of the United States

Football League (USFL) in 1984. At the time, Trump was the majority owner of the New Jersey Generals and was not happy that while “NFL teams average almost \$1 million in profit [each year], USFL teams *lose* \$3.5 million apiece” (USFL Forever). Rather than cutting the losses on a poor investment, Cohn and Trump decided to represent the USFL and charged that the NFL violated the Sherman Antitrust Act “by having and ‘willfully acquiring or maintaining a monopoly,’ in that it could control prices or exclude competition” (Janofsky “U.S.F.L. Loses In Antitrust Case; Jury Assigns Just \$1 in Damages”). The USFL owners and their counsel demanded \$1.32 billion in damages from the NFL for dominating network television airtime, stadium space, and player contracts with the intention of running the USFL into the ground. Cohn and Trump even went so far as to allege that the NFL had started a “secret committee” whose sole purpose was to figure out how to ruin the USFL (Janofsky “Charges Fly From U.S.F.L.”). As Pete Rozelle, the commissioner of the NFL in the 1980s, put it, the lawsuit was “a transparent effort to interfere with [the NFL’s] season and to lay the blame for the USFL’s well known problems and failures at someone else’s doorstep” (USFL Forever).

The case was ultimately decided after Cohn’s disbarment in June 1986, but the decision is reminiscent of the first case Cohn and Trump brought together: in a Pyrrhic victory, the NFL was found guilty of one charge of antitrust violations out of the six charges the USFL had brought against their competitors. As a result, the jury awarded the USFL \$1 in damages, a far cry from the \$1.32 billion Cohn and Trump had demanded (“U.S.F.L. Loses In Antitrust Case”). Thus, it was a victory but, just like in the DOJ’s case against Trump Management, one has to read between the lines to see the real verdict of the case. The most Cohnian result of the USFL case was not the victory with only \$1 awarded in damages, though; it is the clear transition of power from Cohn to Trump captured in the iconic photo from the press conference they held to present

the case (Baram and Mayer). In the photo (see fig. 1), Cohn looks withered with his skin pulled tightly over



Figure 1. Trump and Cohn at USFL Press Conference, 1984

the expanse of his face. Trump had not yet learned of Cohn’s AIDS diagnosis when the photo was taken in 1984 but the disease had already begun to affect Cohn’s body. Cohn is looking off into the distance absently, which serves as a visual foreshadowing of the way in which AIDS would destroy his mental endurance over the course of the next two years (von Hoffman 39). In contrast, a vigorous and forceful-looking Donald Trump stares right into the camera and is mid-sentence, as if he is talking to or at anyone who dares to look at the photo. It was in this moment, in this photo, when the two made a transition: Trump was no longer just Cohn’s mentee but his successor. What Cohn taught Trump about the American legal system was invaluable. Through his paper thin cases, Cohn showed the future president that “litigation [was] a way of life, a tool to get attention, to bring his enemies to book, and to achieve strategic advantage... [and] in short, [Trump] abused the process of a lawsuit, making it into something it was never intended to be—a way to win out against whoever he considered to be his adversary” (Zirin 23).

Although Roy Cohn had friends in high places, he was not necessarily accepted in all circles. His time with McCarthy served as a mark of evil for many and following his return to New York from Washington in 1954, he was a pariah in the political sphere (Auletta). After using his connections to land a job as a law partner at the firm Saxe, Bacon, and Bolan, Cohn came into his own as the figure history remembers him as today: calculating, deceitful, and unscrupulous. He used his relationships with members of the press to always maintain a favorable image and, should a bad story ever slip through, Cohn would counterattack and discredit any adversary. In hindsight, Cohn's façade of strength concealed a man who spent his entire life at war with himself: members of his family remember him for his private anti-Semitism and his claims that Jewish Americans were too closely affiliated with Communism, yet he was honored at the B'nai B'rith Banking and Finance Lodge in 1983 for his championing of Israel's right to exist; his father was a distinguished Democratic New York State Supreme Court judge and Roy launched his career by riding his father's coattails as a foray into New York politics, despite spending the rest of his career admonishing the Democratic party; and although he was an active participant in New York's gay community, "if the subject of gay rights came up, Roy was always the first one to speak out against them" (Tyrnauer; Zion 28; Trump and Schwartz 69).

Even at the end of his life, Cohn believed himself to be unendingly successful. He finished law school at twenty, which was too young to take the bar exam, and his first job after being admitted to the New York Bar was as an Assistant U.S. Attorney prosecuting the Rosenbergs. Despite being a political outcast as a result of it, Cohn defended the work he did with McCarthy until his dying days. Gifted with a photographic memory, Cohn once defended himself in court for seven hours without referencing a single note after his lawyer had a heart

attack (Cohn). He proudly boasted about all of this to Sidney Zion, the journalist assisting Cohn in writing his autobiography throughout his final year of life. And yet, less than a month before he succumbed to AIDS, Roy Cohn was disbarred; as “the IRS mobilized to seize [his] townhouse and his cottage in Greenwich, Connecticut, filing for \$7 million in back taxes... circling, too, was the New York State Bar, bringing to a head its three-year-plus disbarment proceedings” (Kruse et al.). But as Tony Kushner accurately captured in his play *Angels in America*, Cohn did not believe that his disbarment was a punishment for his wrongdoings so much as it was another instance of people with vendettas against him acting on them (Kushner 70-1). Everything Roy Cohn ever was stood in direct conflict with another other part of his persona, and the methods he used as defense mechanisms to protect himself are the model for the man and the president Donald Trump was to become: The lessons Cohn taught Trump in the 1970s and 80s were how to attack, manipulate, and always—above all—win. But the irony is that Cohn did not win in the end and, as the most recent documentarian of Cohn’s life—journalist and filmmaker Matt Tyrnauer—has said, “the open question... is whether Trump’s luck will hold up or whether—like Cohn—he’ll run out of road and face a tsunami of legal difficulties that will diminish him or put an end to the game that he’s played so effectively’... as Tyrnauer reiterated the last lesson of Cohn, ‘He got away with it... until he didn’t’” (Kruse et al.).

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