

FBI, step aside!

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By Terry A. Hurlbut

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Midterms...!

The Federal Bureau of Investigation has now become a campaign issue in Midterms. Their raid on the Trump club called Mar-A-Lago has highlighted how dangerous a federal law-enforcement and counter-espionage agency can be. The FBI literally could have done no worse, except for randomly “rounding up the usual suspects.” (And when they seized a U.S. Congressman’s cellphone while he was traveling, they came close to that.) The campaign talk has gone far beyond haling its Director and the Attorney General before the green table. It has even gone beyond such generalities as “Abolish the FBI.” Now, for the first time, we hear of *concrete measures* that Republican gubernatorial candidates have proposed. Those proposals strike at the heart of how much authority the federal government was ever supposed to have.

Latest developments on the FBI raid on Trump

Concerning the Trump raid, we now know what the FBI was looking for. On July 31, 2016, the FBI began to investigate whether then-Candidate Donald J. Trump took direction or aid from Russia. They gave their investigation the code name Crossfire Hurricane, after a 2012 movie. The best surviving report on this for public consumption comes from a site calling itself Just Security. The worthies at Just Security deny that the FBI “had it in” for Trump. But

they admit that Crossfire Hurricane included a dark comedy of errors. Just Security ended by saying that Crossfire Hurricane was not up to the usual standards the public has come to expect from a storied, celebrated agency like the FBI. (More on how the FBI got its “storied, celebrated” reputation below.)

That investigation wrapped up in 2017. More to the point: on January 19, 2021, President Trump declassified all material relating to Operation Crossfire Hurricane. *But the Justice Department under Attorney General Merrick Garland refused to carry this through.* Indeed the willful disobedience of orders began before Garland assumed office (March 11, 2021). That alone lends credence to Trump’s allegation that a “Deep State” exists.

And on Monday evening, August 8, 2022, the FBI laid on its raid to recover, as they thought, all remaining copies of Crossfire Hurricane documents. As cover for this, they prevailed upon Judge Bruce E. Reinhart to approve a search warrant looking for “classified and national security” documents that belong to the National Archives.

How the FBI turned a warrant into a writ of assistance

Recall again: a *writ of assistance* is a general search warrant that allows its holder to search anywhere and everywhere for anything and everything the authorities don’t think the target of the search ought to have. In contrast, in the United States, search warrants must *describe particularly* the places and objects of any search. Indeed, naming an address does not suffice. The warrant must not only designate a building but *name the rooms in the building* that law-enforcement officers may search.

Furthermore, courts *must exclude* any evidence that law enforcement obtains by searching without a warrant, or beyond its terms. This Exclusionary Rule dates back to 1914 and has several supporting precedents. They include:

- *Weeks v. United States* (1914),
- *Byars v. United States* (1927), and
- *Janis v. United States* (1976).

Bear this in mind as you read these fresh details of how the FBI behaved. They entered the house and ordered several of Trump’s attorneys to leave. One agent showed Lawyer Christina Bobb the search warrant – from ten feet away. Then the agents ordered Trump’s household staff to turn off the house surveillance system.

The staff did not obey that order. And according to one of Trump’s sons, Eric, the surveillance system captured several agents clearly exceeding the warrant. For *ten hours* they searched every room in the house, even rifling the wardrobe of Trump’s wife Melania. So even if the warrant is valid, the FBI treated it like a writ of assistance.

Why are the supporting documents under seal?

We also learn the most likely reason the supporting affidavit and other documents for the warrant remain under seal. *The information could have come from a spy among Trump's household staff.* *Newsweek* cites two "Senior Government Officials" as their sources for this revelation. Those same anonymous sources said the FBI laid on the raid when they knew Trump would not be in residence. That way, Trump wouldn't be able to publish lurid photographs of movie-scene encounters with FBI agents acting like KGB agents.

They didn't count on Trump finding out about it and breaking the news himself. Which he can do, because he has built a Twitter competitor he calls Truth Social.

"What a spectacular backfire!" cries one of those SGOs. The rest of what he said is unimportant. *Newsweek* and its sources can deny as they please that this raid had a political motive. But their denials ring hollow in the face of the FBI getting a warrant of dubious cause, then acting as if they had a writ of assistance instead of a valid Fourth Amendment compliant search warrant.

We also have this from *Wall Street Journal* reporter Paul Sperry, through another Twitter user who screencapped his tweets before Twitter suspended his account.

| pic.twitter.com/qLgSoVquOZ

| — Ultra MAGA Suave: Say No to RINOS & False Flags (@anaelena12345) August 9, 2022

Sperry notes that three senior Justice Department officials who took briefings on the raid, *had definite conflicts of interest*. The conflicts go back mainly to Crossfire Hurricane. Furthermore,

| CNN is admonishing its reporters not to call the FBI raid of Trump's home a "raid."

Efforts to unseal the warrant

As above, Judge Bruce Reinhart has lately identified himself as the judge who approved the warrant. Why he kept the warrant and supporting affidavit under seal, no one has yet revealed. But Judicial Watch and the *Albany Times Union* (Albany, N.Y.) have each filed a motion to unseal these documents. The report comes from *The Epoch Times*, which also quoted Judge Reinhart's order to respond:

| On or before 5:00 p.m. Eastern time on August 15, 2022, the Government shall file a Response to the Motion to Unseal. The response may be filed ex parte and under seal as necessary to avoid disclosing matters already under seal. In that event, the Government shall file a redacted Response in the public record. If it chooses, the Government may file a consolidated Response to all Motions to Seal.

Raising the cry to abolish the FBI

Calls to abolish the FBI are nothing new. More to the point, Bill Hansmann, [writing](#) in *The American Thinker*, sounded such a call in October of 2021. He cites an [article](#) in *The American Spectator* on this subject from November of 2017.

Hansmann makes two points. First is that the FBI is not the “humble, hard-working” agency everyone thought it was, if it ever was. The FBI’s first director, J. Edgar Hoover, carefully *built* that reputation. He had the cooperation of Hollywood, to the extent that absolutely anyone planning a movie project featuring the FBI had to run the script and other supporting information through Hoover’s office. Hoover also had the willing participation of television producer Quinn Martin, who created the memorable and long-running series everyone remembers. (*The FBI*, prod. Quinn Martin, with Efrem Zimbalist, Jr., Philip Abbott, Stephen Brooks, and William Reynolds; Warner Bros. Television, 1965-74.)

J. Edgar Hoover served the longest as Director of the agency. His secret: he had “the dirt” on all of official Washington. So he laid on them an ultimatum: leave me and my agency alone, or I take you down. But Hoover *never* played political favorites; he terrorized everyone equally. (And could do that because Washington, D.C. has always been a corrupt city.)

His death in 1972 affected the Bureau worse than the death of Charles de Gaulle affected France’s Fifth Republic. Two years later, the Quinn Martin series played its finale.

Further history

Hoover had a number of favorite targets, and his Bureau attacked them assiduously. Communists, both internal and external (especially Soviet, Warsaw Pact, and Chinese spies), were his top targets. In fact he wrote a book, *Masters of Deceit*, pouring out his rage against Communism and Communists. His other targets, in decreasing order of probable importance, were bank robbers, kidnappers-for-ransom, and organized crime syndicates.

The ability of the FBI to recover ransoms, and kidnap victims, became near-perfect. But that Quinn Martin series might have made people think that *anyone* might be subject to kidnap for ransom. Not true, of course – rich families are where the money is, or was in Hoover’s day. But Hoover and Martin took pains to make sure *all* Americans would sympathize with the kidnap victims and *never* with the kidnappers. That became part of the larger narrative: if the FBI comes after you, you must have done something wrong.

That’s how J. Edgar Hoover could get away with operations like [COINTELPRO](#), which targeted student demonstrators and anyone else whom Hoover suspected of sympathizing with Communists. The targets did little to engender the sympathies of anyone but the most die-hard Bolshevik ideologues and political theorists. But that did not change the fact that

COINTELPRO was illegal. The Trump raid shows that the worm has turned. The FBI now treats patriotic Americans the way it treated the Communist Party in the Sixties and Seventies.

Concrete proposals against the FBI

And with the Trump raid we now see the first concrete proposals, going beyond the white-paper and talking-point stage. Florida State Rep. Anthony Sabatini (R-32nd) made the first such proposal hours after the raid.

It's time for us in the Florida Legislature to call an emergency legislative session & amend our laws regarding federal agencies

Sever all ties with DOJ immediately

Any FBI agent conducting law enforcement functions outside the purview of our State should be arrested upon sight

— Rep. Anthony Sabatini (@AnthonySabatini) [August 9, 2022](#)

He demanded an emergency legislative session to “sever all ties with the DOJ immediately.” With this proposal he showed that he means business:

Any FBI agent conducting law enforcement functions outside the purview of our State should be arrested upon sight.

Presumably he means not to permit the Bureau to do law enforcement outside of federal government reservations or buildings. Bank robbery? That becomes a State beef. Same with kidnap or organized crime. And “interstate transportation of stolen property/motor vehicles/whatever”? Let the Florida State Police chase that down within Florida’s borders.

Gubernatorial Candidate Kari Lake (R-Ariz.) wants to sue the federal government under the Tenth Amendment.

FULL STATEMENT: pic.twitter.com/5yFEdeIAW0

— Kari Lake for AZ Governor (@KariLake) [August 9, 2022](#)

The Tenth Amendment reads:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The Constitution delegates a *very narrow list* of law-enforcement powers to Congress. They include dealing with minting or printing counterfeit coin or currency, crime on the high seas, or crimes in places where Congress has “exclusive legislation, in all cases whatsoever.” That

includes Washington, D.C., and any federal reservation or installation. Outside those areas, Congress has *no* authority. It follows then that the FBI *should not exist*.

Further concrete proposals

Another gubernatorial candidate, Dan Cox (R-Md.), goes further. *The Baltimore Sun* has this tweet about a small part of what Cox has been saying lately:

Dan Cox says he would use Maryland law enforcement to ‘stand against’ federal government after raid on Trump’s residence <https://t.co/lcsCbri2Tw>

— Sun Latest News (@BaltSunBrk) [August 9, 2022](#)

Cox evidently said this in a [fundraising email](#) to Maryland residents:

As governor, I will use the 9th and 10th Amendments, the Maryland Constitution and Declaration of Rights, the [Maryland State Police] and Maryland Guard to stand against all rogue actions of this out-of-control tyrannical Biden administration with fierce tenacity. Our children, families, and loved ones and the freedom we cherish and is our birthright as Americans demand we oppose these criminal acts of this current administration.

The *Ninth* amendment reads:

The enumeration in this Constitution of certain rights shall not be construed as to deny or disparage others retained by the people.

Obviously Cox’s declaration goes farther than a call to abolish the FBI. But the FBI clearly is his first target.

Cox, Lake, Sabatini, and Gov. Ron DeSantis (R-Fla.), should he take up Sabatini’s suggestion, would have widespread sympathy. This tweet gives the strongest indication of this:

I’m hearing lots of Republicans talk about winning the midterms — I’d rather hear red state governors talk about expelling federal agents from their state borders.

— Jake Bequette (@JakeBequette91) [August 9, 2022](#)

I’m hearing lots of Republicans talk about winning the midterms. I’d rather hear red state governors talk about expelling federal agents from their state borders.

A post-FBI America

What would a post-FBI America look like? To answer that, we look at history. Interstate crime was never a serious issue in the days of horse. Even horses could not transport large quantities of stolen bullion – or kidnap victims – very far.

The railroads changed everything. Rail transport by its nature is more interstate than intra-state. And as railroads crossed the Wild West, bandits, chiefly attacking freight trains and occasional gold shipments attached to passenger trains, became a problem.

Real problems attract real solutions, and the new interstate crime problem was no different. Allan Pinkerton, who came to the United States from Scotland in 1842, founded the National Detective Agency that bears his name in 1850. Many staples of police procedure, including the mug shot and the “rogues’ gallery,” began as Pinkerton innovations. So *before* the FBI had its Ten Most Wanted Fugitives, Pinkerton’s had its Rogues’ Gallery. Pinkerton’s also claims credit for keeping Abraham Lincoln alive as the War Between the States began.

Pinkerton’s still exists, even if the FBI, as the 800 pound gorilla, took most of its “business” away from it. So Pinkerton’s could *easily* provide all the legitimate protections for which interstate shippers – and banks, and bullion houses, and rich families – now rely on the FBI.

But the *illegitimate* activities, and 9th and 10th amendment violations, would stop. That would include treating American patriots, and concerned parents, as enemies of the state.