

Good Cop, Bad Cop

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For generations it was one of the most revered and popular of American institutions. The Federal Bureau of Investigation's straight-shooting and straitlaced "G-Men" (short for government men, a moniker coined by the notorious George "Machine Gun" Kelly) were the heroes of film and television lore. They were the relentless and incorruptible nemeses of criminals, spies, and all enemies foreign and domestic. Jimmy Stewart, in *The FBI Story* (1959), and Efrem Zimbalist Jr., star of the long-running television series, *The FBI*, personified to many Americans our premier federal law enforcement agency, renowned for its professionalism, efficiency, and integrity.

Commanding this fabled corps of federal crime fighters for nearly half a century (1924-72) was the legendary J. Edgar Hoover, whose bulldog visage conveyed a toughness and tenacity that complemented well his reputation for rectitude and patriotic zeal. Hoover and the Bureau were never without their detractors, to be sure, but most Americans gave the FBI high marks. And to judge from the runaway success of television mega-hit, *The X-Files*, and the adulation of its star, David Duchovny, who plays clean-cut FBI agent Fox Mulder, the G-Men are as popular now as ever.

Troubling Revelations

But there is trouble a-plenty in the celebrated Bureau today, as well as many recent developments in its practices and ever-expanding jurisdiction that every thoughtful citizen will find troubling.

Among the numerous body blows to the FBI, of late, are:

- The recently released investigation of the Office of the Inspector General of the Justice Department into the FBI's once-vaunted crime lab which found, among other things, "scientifically flawed testimony," "substandard analytical work," and "deficient practices" which could affect hundreds of past and current cases.
- The disclosure on April 15th by the Los Angeles Times that a study of the FBI crime lab conducted by a team of outside scientists from the American Society of Crime Laboratory Directors in 1991 revealed widespread problems in the lab.
- Calls from a senior U.S. senator for a criminal investigation into the FBI crime lab since the Inspector General's (IG) report was "only a management study" and did not "investigate for criminal actions."

- Revelations from a study by the Wall Street Journal that an FBI agent criticized in the IG report had provided false testimony that proved to be crucial in the celebrated convictions of Dr. Jeffrey MacDonald and Federal Judge Alcee Hastings.
- A just-released two-year-long Justice Department inquiry which cites the FBI for dereliction in failing to aggressively pursue leads which would have led to the capture of Soviet spy Aldrich Ames years earlier and saved U.S. operatives from betrayal by Ames.
- Continuing fallout over "Filegate," in which the FBI was caught improperly providing to the Clinton White

House sensitive FBI files on nearly a thousand Republicans, and "Travelgate," in which the Bureau appeared to be doing hatchet work for Hillary Clinton on employees of the White House travel office.

- Ongoing reverberations and legal battles over the FBI's gross mishandling of events that resulted in the deaths of women and children at Waco and Ruby Ridge, not to mention subsequent obstruction of justice by senior FBI officials who covered up and destroyed evidence in these cases.

Equally serious are a host of other black eyes the agency has inflicted upon itself, including: the high-profile arrest and prolonged abuse of Richard Jewell in the Atlanta Olympics bombing; evidence that in an alarming number of recent cases, FBI agents and informants have actually acted as agents provocateurs, illegally inciting and instigating the very crimes they were supposed to be preventing; shocking evidence that the FBI had specific foreknowledge of the plans for both the 1993 World Trade Center bombing and the 1995 Oklahoma City bombing, and yet failed to take proper actions to prevent the deadly blasts; an alarming pattern of intimidation and badgering of witnesses whose testimony does not agree with that desired by the FBI; and the extraordinary decision first to keep the FBI out of the Vince Foster "suicide" investigation, and the subsequent trail of troubling developments that ensued once it did get involved.

Gone Global

However, in spite of this litany of misdeeds, errors, and abuses (which does not begin to catalog the disturbing practices and policies of the organization), the FBI has been given an ever-larger budget, to go along with ever-expanding powers, jurisdiction, and personnel. Indeed, the new FBI has "gone global," with offices and agents now in 46 foreign cities, including Moscow, Beijing, Islamabad, Cairo, and Tel Aviv, and cozy relationships with the Russian KGB and other foreign police-state apparati.

Meanwhile, at home the FBI is rapidly assuming the trappings and authority of a national police force, thanks to recent "anti-terrorist" and "anti-crime" legislation

which has federalized hundreds of crimes and, thus, has our famed G-Men (over 25,000 strong now) involved in virtually all areas of law enforcement that had heretofore been exclusively local or state matters.

It is this accelerating centralization of police powers and the alarming abuses of those powers, in tandem with the increasing convergence with totalitarian police-state regimes, which should concern all Americans who place any value on freedom. This dangerous trend flagrantly violates all constitutional principles and dashes the checks and balances which the framers of our federalist system labored so diligently to establish. The history of this bloody century is littered with the corpses of countless millions of souls who perished under the brutal wheel of statist butchers who rose to power via the same treacherous path on which our nation now blindly marches.

Genesis of the G-Men

The perils of that path were less obvious but better understood when President Teddy Roosevelt's Attorney General, Charles J. Bonaparte (a descendent of Napoleon) first sounded the call for a federal constabulary. "[I]t seems obvious," Bonaparte said, in an appeal to Congress in 1907, "that the Department on which not only the President, but the courts of the United States must call first to secure the enforcement of laws, ought to have the means of such enforcement subject to its own call; a Department of Justice with no force of permanent police in any form under its control is assuredly not fully equipped for its work."

The truth of Bonaparte's logic seems self-evident: To enforce federal laws you need federal enforcers. But therein lays the crux of the problem both then and now: the unwise — and in many cases, the unconstitutional — involvement of Washington in matters which properly should have been under the

purview of state and local governments. The primary cause of Bonaparte's appeal was the need to deal with the huge scandal involving massive fraud in the federally controlled lands of the Western states. But the corruption in the Interior Department's General Land Office — which resulted in the convictions of congressmen, federal officials, and their business partners — was due largely to the federal government's failure to abide by its mandate to "dispose of" federal lands into new states. This was one of the central conditions extracted by seven of the original 13 colonies which held claims to the vast "Western Lands" and would not countenance ceding these as a colossal barony for the proposed new central government.

From the start, however, there were moneyed interests on the Northeastern Seaboard who recognized that cheap or free land in the new states of the West would spell doom for their economic and political hegemony. They used their tremendous influence in Washington to prevent disposal of the lands to the states and to keep them locked up under various "conservation" pretexts. The vast wealth in natural resources tied up in those lands and the remoteness of the

absentee "landlord" in Washington provided irresistible temptations and guaranteed continuing problems.

One solution would have been to "dispose of" the troubled federal lands by turning them over to the individual states, as originally intended by our nation's founders. President Roosevelt opted for another "solution": enhanced federal policing of the handling of federal lands. A wary Congress, however, ignored his Attorney General's plea and passed legislation forbidding the Justice Department from "borrowing" Secret Service agents from the Treasury Department for investigating law violations, as had been the practice. In 1908 Bonaparte issued an order creating an investigative agency — without enforcement powers — within his Department. This was the beginning of what would become the FBI.

The following year, Bonaparte's successor in the new Taft Administration, Attorney General George Wickersham, named the neophyte agency the Bureau of Investigation. The Bureau was brought into action as a federal crime-fighting organization with passage of the 1910 White Slave Traffic Act, or Mann Act (for Representative James Robert Mann). This legislation had come about in response to the discovery that vice syndicates were importing thousands of foreign women and girls, and engaging in interstate traffic of same for purposes of prostitution.

Even so, Attorney General Wickersham, recognizing the basic "states' rights" principle enshrined in the U.S. Constitution, cautioned U.S. attorneys against imprudent zeal and unnecessary intrusion into local matters. He urged his department to defer to "the discretion of district attorneys who have a first-hand knowledge of the facts" and advised them to consider "what reasons, if any, exist for thinking the ends of justice will be better served by a prosecution under federal law than under the laws of the state having jurisdiction."

Expanding Jurisdiction

The Taft-Wickersham sympathy for "states' rights" in law enforcement stands in stark contrast to the federal "Supercop" mentality of the Clinton-Reno regime (and previous Republican and Democratic Administrations, for that matter) which views local police as mere administrative appendages of an all-knowing "Big Brother" in Washington. Nevertheless, the FBI's jurisdiction gradually was expanded as Congress passed more laws, which in turn required more investigations of alleged violations of those laws and, inevitably, more arrests and prosecutions.

In response to the sensational 1932 kidnapping and murder of the infant son of American aviation hero Charles Lindbergh, federal legislation was passed providing the death penalty for transporting a kidnaped person across a state line.

Around the same time, the exploits of notorious gangsters like Al Capone, John Dillinger, "Baby Face" Nelson, "Pretty Boy" Floyd, and Alvin Karpis increasingly

brought the FBI into the gangland wars. However, as in the cases of its earlier fights against communists, anarchist bombers, and the Ku Klux Klan, the feds were forced to wait until they could find a federal law that had been violated, and then often had to use local police to serve warrants and make arrests.

In the case of the Klan, the FBI had been searching, to no avail, for KKK violations of federal law when a constitutional solution was presented unexpectedly. In 1922, Louisiana Governor John M. Parker applied to President Harding for action against the Klan under Article IV, Section 4 of the Constitution, which guarantees federal protection to the states against domestic violence — on application by a state's legislature or chief executive.

The headline-topping violence of the big city mobsters generated calls for federalizing the nation's police, a move Hoover solidly opposed. "The cry of the public," Hoover wrote to U.S. Attorney General Cummings in 1933, "is for federal legislation and federal prosecution of racketeers." But, the FBI chief emphasized, "the problem is a state one," and should be handled primarily by state and local law enforcement.

"I wish to state emphatically," wrote Hoover in 1956, "that the FBI is not and never can be a national police organization as long as its development continues to be on cooperative lines. The most lasting contributions made by the FBI have been those which encourage cooperation with local, county and state law enforcement agencies.... There is never any doubt within the FBI that the hometown law enforcement agency must ever be in the forefront of crime control." Moreover, he stated, "We are not a policy-making organization. The FBI is a service organization which is subordinate to the Department of Justice. And that is as it should be. The FBI should never be permitted to become an independent agency, operating without the checks and controls under which it now operates."

Hoover repeatedly demonstrated his reluctance to expand federal law enforcement at the expense of state and local authorities. Which is especially noteworthy inasmuch as his "liberal" detractors are ever at pains to paint the man as a power-mad, empire-building tyrant (when they aren't dredging up unsubstantiated, defamatory gossip alleging that he was a flaming homosexual) even as they lionize current FBI Director Louis Freeh, whose expansionist zeal is as transparent as Genghis Khan's.

Investigating the Bureau

But Mr. Freeh's halo has suffered some tarnishing of late, and a long series of alarming revelations has sounded a signal warning that the time is long past for a thorough investigation of the Federal Bureau of Investigation. Much of the media coverage of the massive report of Justice Department Inspector General Michael Bromwich has focused on claims that even though the 18-month investigation turned up many examples of abysmally shoddy "science" in the FBI crime lab, it

fell short of substantiating the more serious claims of widespread criminal malfeasance alleged by FBI whistleblower Dr. Frederic Whitehurst. (See our March 3rd issue, page 15.)

However, as Senator Charles Grassley (R-IA) pointed out on April 15th when the IG report was released, a careful reading of the 517-page report (which was accompanied by an equally long appendix) does indeed show that "many of the major allegations of whistleblower Frederic Whitehurst have been substantiated." Then he leveled a more serious charge that apparently missed the notice of the media mavens. "By sharp contrast," he said, "in 1994, Director Freeh and his lawyers took two and a half months to review the exact same allegations. The result was 14 pages of whitewash. The issues were not taken seriously.... Instead, the FBI attacked the messenger, Dr. Whitehurst."

On the following day, April 16th, Senator Grassley drew attention to an investigative story on the FBI crime lab in that morning's Wall Street Journal, which he said "reveals the limitations and shortcomings of the IG's report." The extensive story by Laurie P. Cohen focused on FBI Special Agent Michael Malone, an expert in the FBI crime lab's Hair and Fibers Unit, who was found to have provided false testimony in a number of high-profile cases. The IG report does censure Malone for "testifying falsely" against Judge Alcee Hastings, but stops short of finding intentional wrongdoing. The Journal quoted several forensic scientists and hair and fiber experts who roundly condemned Malone's testimony in a number of cases not mentioned in the IG report. The FBI's own lab examiner, William Tobin, had written a memo accusing Malone of 27 instances of false or misleading testimony in the Hastings case alone, but no action was taken. Even more disturbing is the testimony from outside experts who refused to yield to pressure from Malone and FBI colleagues for statements supporting Malone's false testimony.

Criminal Wrongdoing?

The many serious allegations concerning Agent Malone are themselves an indication of the need for a wider investigation beyond that of the just-concluded IG probe, which examined only three of the FBI lab's 23 units. There are additional reasons for a more extensive inquest. One is to inquire into alleged criminal actions. As Senator Grassley noted, "The IG's charter was not to investigate for criminal actions. It was only a management study." "The IG said he didn't find any evidence of crimes, as alleged by Whitehurst — like perjury, or tampering with evidence by lab personnel," says Grassley. "But that's because he didn't do a criminal-type investigation. That's a methodology that would detect patterns of questionable activity."

A senior congressional staffer who closely monitored the IG investigation told The New American, "We had to push hard to get him [the Inspector General] to go as far as he went [in the report]. He did a pretty good job considering he is a Clinton appointee and was under considerable pressure from the

Administration." Besides, the staffer noted, "this is about as strong as investigations get here in Washington." But there is compelling prima facie evidence of criminal activity at the lab, said this staff member, and "a criminal investigation is clearly in order and that's what we will continue to push for."

Deficient as the IG inquest was in pursuing criminal actions, it definitely pointed toward, as Senator Grassley hinted, an intentional blind eye on the part of Mr. Freeh's earlier "whitewash" team. This conclusion becomes all the more obvious when one considers the just-disclosed 1991 report by the American Society of Crime Laboratory Directors (ASCLD), which delivered a scathing review of FBI lab practices. The experts from the ASCLD, the national professional organization of directors of crime labs, reported that they "were shocked to learn of the variety of ways in which evidence was logged, tracked and marked, or in some cases not marked at all," at the FBI laboratory. "More often than not," said the ASCLD reviewers, "work space is left completely unattended and unlocked with evidence spread over tables and desk tops. Under ASCLD guidelines, this practice is unacceptable."

Prior Warning and Cover-up

These slovenly and inexcusable practices were not corrected, and as the IG report revealed (and as this magazine has previously reported) they may dramatically affect the results of some major criminal cases. Foremost among those is the Oklahoma City bombing. The Inspector General's report particularly censured the work of Special Agent David Williams of the FBI lab explosives unit, and Williams' supervisor, Thomas Thurman. Williams, the main explosives analyst for the prosecution in this case, had grossly fudged evidence on all of the major points: the size and composition of the truck bomb, the velocity of the explosives, the type of detonator used, the containers that supposedly were used, and the presence of explosive residue on clothing and other articles belonging to Timothy McVeigh.

But chronic sloppiness and unscientific lab practices are not the most serious problems facing the FBI. Far more alarming is evidence uncovered by *The New American* and others indicating that the Bureau and the Justice Department had specific advance warning about the impending bomb attack on the Murrah Building from at least two confidential informants with whom the government had formal agreements. *The New American* has reported in past issues on Carol Howe, who provided prior warning to both the Bureau of Alcohol, Tobacco and Firearms and the FBI concerning a bomb plot against the Murrah Building from White Aryan Resistance/Aryan Republican Army elements associated with a rural Oklahoma encampment known as Elohim City. We have also reported on Cary Gagan, the confidential informant who provided specific information to the U.S. Marshals Service, the FBI, and the Justice Department concerning his direct involvement in transporting explosives for Middle Eastern terrorists who had targeted federal buildings in Oklahoma City and other Western and Midwestern cities.

Both of these informants have convincing evidence to back up their stories. In addition, federal officials have been caught in serious lies and contradictions involving these informants. In the case of Carol Howe, the government had been denying for nearly two years that it had had any informant inside Elohim City. That was proven false when Miss Howe surfaced and the ATF was forced to admit that she had been their operative inside the Elohim community both before and after the bombing. The government still denies her claim that she informed them months before the blast — in December 1994 — of plans to bomb the Murrah Building, but has refused to turn over her briefing reports from that period. What federal agents can't explain away however are their own admissions that in extensive debriefings two days after the bombing Miss Howe specifically named Elohim City resident Andreas Strassmeir and White Aryan Resistance leader Dennis Mahon as members of the bomb plot — and yet federal authorities made no effort to question or apprehend them.

The New American has reported extensively on other compelling evidence that federal law enforcement had prior warning of the attack, including interviews with many witnesses who reported seeing bomb squad vehicles and personnel around the Murrah Building an hour to an hour and a half before the bombing. The evidence is very strong that some elements of federal and local law enforcement did indeed have intelligence indicating an attack was to take place that morning at that location. What went wrong is still unclear, but what is clear is that the government immediately went into the denial and cover-up mode. This becomes all the more disturbing when we consider that an almost identical pattern of cover-up and denial emerged after the New York World Trade Center bombing. As we have reported in previous issues, an eerily similar scenario occurred in that tragic event, with an FBI informant, Emad Salem, providing authorities with detailed prior knowledge of the bomb plot. They still have not offered an explanation for failure to act on their own informant's warnings.

Intimidation of Witnesses

Also distressing is considerable evidence which has come to the attention of The New American indicating that FBI investigators in the Oklahoma City bombing have intimidated witnesses whose stories challenge the government's lone-bomber scenario — in other words, those witnesses whose testimonies might lend credence to evidence that federal investigators know a great deal more about the bombing than they are saying.

Most witnesses who have reported being subjected to harassment from the FBI have asked not to be identified, but some have been angry enough about this abuse to speak publicly. One of those is Barbara Whittenberg, owner of the Santa Fe Trail Cafe, just a couple blocks down the street from Terry Nichols' home in Herington, Kansas. Mrs. Whittenberg and some of her employees have told this reporter and others

that Terry Nichols, Timothy McVeigh, and a man closely resembling the sketch of John Doe No. 2 came into her cafe on the Saturday morning before the bombing. She spoke with them and noted their Ryder truck and McVeigh's car with Arizona license plates. She and others also reported seeing the same Ryder truck at nearby Geary Lake. However, Mrs. Whittenberg says that FBI agents, rather than take her information, argued that she couldn't have seen what she claims to have seen.

In nearby Junction City, Kansas, Jeff Davis delivered oriental food to McVeigh's room at the Dreamland Motel, but the man who took the order and paid him, Davis insists, was not McVeigh, Nichols, Fortier, or John Doe No. 2. However, says Mr. Davis, the FBI agents repeatedly pressured him to say that the man he saw was McVeigh.

An even more serious example of apparent intimidation involves Glenn and Kathy Wilburn, whose grandsons Chase and Colton were killed in the Murrah Building's daycare center. Glenn Wilburn reported last year that his home was repeatedly under surveillance by federal officers in unmarked vehicles with government plates. He believed they were harassing him because of his outspoken belief that the federal investigators were not seriously pursuing John Doe No. 2 and other accomplices in the bombing. On one occasion, says Wilburn, an FBI agent told him that his (Wilburn's) own teenage son looked a lot like John Doe No. 2. "It was clear that he was trying to rattle and intimidate me," Wilburn told *The New American*. "I was dumbfounded, I couldn't believe they would sink that low." But they went still lower. On another occasion, an agent inferred that Wilburn might be a suspect himself in a telephone bomb threat. "I couldn't believe it, that they would suggest that after all the anguish we had gone through with losing our grandchildren in the bombing that I would do something that cruel to someone else," says Wilburn. "It was just unbelievable." It was obvious, he said, that they were engaging in "psychological warfare" against him in an attempt to discourage him from continuing his own independent investigation.

Foster "Suicide"

Another high-profile case which has also demonstrated the grave, systemic faults and high-level corruption in the Justice Department and the FBI is the July 20, 1993 "suicide" of Vince Foster. FBI Director William Sessions had been fired by President Clinton only hours before Foster turned up dead. Foster, Clinton's boyhood friend and a top deputy in the White House counsel's office, was deeply involved in what Sessions later described as a "power struggle within the FBI and the Department of Justice." One of the "events" in that struggle, said Sessions, was the Travelgate scandal, in which FBI agents were "summoned to the White House without my knowledge" to improperly carry out the bidding of the Clintons in the sacking of veteran staffers of the White House travel office.

The decision to keep the FBI out of the investigation into Foster's death and to put the U.S. Park Police in charge of it was itself extraordinary and suspicious,

both in light of Foster's high position and the Park Police's cloudy record in previous homicide cases. "In view of the nature of this case, the FBI should have been involved" from the start, William Roemer, the highly decorated former head of the FBI's Organized Crime Task Force, told the Washington Post.

"In my experience, I have never seen a case so poorly handled and investigated, especially since there is so much evidence of foul play," says Vincent Scalice, an expert witness who has investigated thousands of homicides during his 35 years as a homicide investigator for the New York City Police Department. Noted pathologists, prosecutors, and police investigators have also expressed shock at the myriad of serious violations of standard investigative procedure and the multitude of clashing "facts" in the Foster case.

When the FBI finally was brought in on the case, they only aided in the cover-up by vouching for the integrity

and competency of the terribly "botched" Park Police investigation. Then the FBI added its own obstructions. Patrick Knowlton, whom officials say was the first to see Foster's car in a parking lot, says the FBI "lied" in his witness statement by claiming he could not identify a man he saw in the park. Knowlton claims he can, and that is what he told the FBI. Constant obstruction by FBI agents assigned to the case is cited as the cause of U.S. Attorney Miquel Rodriguez's resignation as lead prosecutor in the Foster inquest.

The problems associated with the FBI's handling of the Foster investigation are so serious and so numerous that that case alone would warrant a thorough probe of the FBI and the Justice Department. Certainly these indications of rampant corruption at the highest levels of the federal criminal justice system should give pause for serious reflection on the need to reverse the present trend of concentrating still more police and prosecutorial power in Washington.