

FBI Stages Unprecedented Raid on Congressman's Office

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The FBI conducted a search of the office of Louisiana Representative William Jefferson over the weekend in what is the first such intrusion by an agency of the executive branch into the office of a sitting congressman in US history. In a press conference on Monday, Jefferson, a Democrat, denounced the raid as an “outrageous intrusion into the separation of powers.”

The raid on Jefferson's office in the Rayburn House Office Building on Saturday night was a politically motivated breach of constitutional boundaries aimed at asserting the power of the executive branch over the legislative. It is yet another political marker in the government's moves towards dictatorial forms of rule.

The action was an unmistakable signal to any congressmen who might be inclined to seriously investigate the myriad illegal and unconstitutional actions of the administration, and hold leading members of the administration accountable.

There were, no doubt, other political calculations as well. The choice of a Democrat as the target of the raid was not accidental, given the welter of bribery and influence-peddling scandals that have beset the Republicans in recent months.

Jefferson is the subject of a bribery investigation. The FBI is probing allegations that he took hundreds of thousands of dollars in bribes to promote business ventures in Nigeria, Cameroon and Ghana. His New Orleans and Washington-area homes were search by the FBI last August.

In a search-warrant affidavit unsealed on Sunday, the FBI states it has videotaped evidence of Jefferson taking \$100,000 in bribe money and that it found \$90,000 of the same cash inside his apartment freezer. Two other individuals have pleaded guilty to bribing Jefferson to promote the Kentucky-based Internet and cable TV company, iGate.

Underscoring the unprecedented and egregious character of the Justice Department operation is the reaction it has provoked from leading Republicans. Senate Majority Leader Bill Frist stated he was “very concerned” about the incident and said Senate and House counsels would review it.

In a strongly worded statement, House Speaker Dennis Hastert (Republican, Illinois) protested the “overreaching and abuse of power by the executive branch.” He continued: “I am very concerned about the necessity of a Saturday night raid on Congressman Jefferson's Capitol Hill Office in pursuit of information that was already under subpoena and at a time when those subpoenas are still pending and all the documents that have been subpoenaed were being preserved.”

Hastert added, "The Founding Fathers were very careful to establish in the Constitution a Separation of Powers to protect Americans against the tyranny of any one branch of government. They were particularly concerned about limiting the power of the Executive Branch.

"Insofar as I am aware, since the founding of our Republic 219 years ago, the Justice Department has never found it necessary to do what it did Saturday night, crossing this Separation of Powers line, in order to successfully prosecute corruption by Members of Congress... Nothing I have learned in the last 48 hours leads me to believe there was any necessity to change the precedent established over those 219 years."

Former House Speaker Newt Gingrich sent an email to congressional Republicans Sunday night, commenting, "What happened Saturday night... is the most blatant violation of the Constitutional Separation of Powers in my lifetime... I am shaken by this abuse of power."

Representative David Dreier, the California Republican who is chairman of the House Rules Committee, said "I think this is really outrageous."

Republican House Majority Leader John Boehner, speaking with reporters in an off-camera briefing, said he wondered whether people at the Justice Department had looked at the Constitution lately. He predicted that the matter might eventually go to the Supreme Court.

House Minority Leader Nancy Pelosi (Democrat, California) issued a milder rebuke, stating that "members of Congress must obey the law and cooperate fully with any criminal investigation," but that "Justice Department investigations must be conducted in accordance with constitutional protections and historical precedent."

The search of a congressional office violates the "speech or debate" clause of the US Constitution, contained in Section 6 of Article 1, concerning the legislative branch. This clause was aimed at shielding legislators from intimidation by the executive branch, and has been broadly interpreted by the courts throughout history. It traces its origins back to a clause in the English Bill of Rights of 1689, aimed at protecting the independence of Parliament against the monarchy.

Charles Tiefer, a University of Baltimore law professor, commented to the Washington Post that the raid on Jefferson's office constituted "an intimidating tactic that has never before been used against the legislative branch." He added, "The framers [of the Constitution] would turn over in their graves."

Donald Ritchie, a historian with the Senate, said his office could find no record of a similar incident, though the homes and business offices of lawmakers had been searched in the past.

Information that has emerged since Saturday night makes clear that Bush administration officials were well aware they were treading on constitutionally protected ground in executing the raid. In seeking a search warrant from a federal district judge in suburban Virginia, the Justice Department outlined special procedures they would follow, including the use of a "filter team" to supposedly ensure that the search did not infringe on privileged legislative material.

This "filter team"—comprised of prosecutors and FBI agents whom the Justice Department

contents are unconnected to the investigation—would review any seized items or documents to determine whether they are privileged and therefore immune from the search warrant. It is clear, however, that the members of this team would be answerable to the Justice Department, an executive branch agency ultimately accountable to the White House. As such, this “safeguard” would serve again to establish presidential powers over the legislative branch.

Another sign of the calculated nature of the operation is the fact that FBI officials activated a special command center for the sole purpose of monitoring the raid.

Defending the raid in response to the outcry from members of the Senate and House, Attorney General Alberto Gonzales on Monday would only say, “I admit that these were unusual steps that were taken in response to an unusual set of circumstances.” On Tuesday he claimed that his office had decided the search of Jefferson’s office was “absolutely essential to move forward with that investigation.”

This is hardly plausible, given the mass of evidence the government had evidently already assembled against the Democratic congressman. There was, moreover, no legitimate reason for sidestepping the normal procedure of issuing subpoenas.

The Justice Department search of Jefferson’s office must be seen in the context of the frontal assault on traditional democratic procedures and constitutional safeguards being carried out by the Bush administration. This is a government that operates in secret and refuses to hold itself accountable either to Congress or to the American people.

Its methods and policies—an illegal war based on lies, the use of torture, secret prisons and kidnappings, the denial of due process and habeas corpus rights, a vast and secret program of warrantless spying on the American people, the repeated refusal to hand over documents to Congress or allow White House officials to testify in congressional investigations, the use of the military for domestic policing operations in violation of the posse comitatus act—constitute preparations for police state forms of rule that are well advanced.

Only three days ago, Gonzales indicated that the government was considering prosecuting journalists for reporting, on the basis of leaks provided by intelligence agency whistleblowers, information on the National Security Agency data base of the phone records of more than 200 million Americans and the existence of secret CIA prisons abroad where alleged terrorists are being held indefinitely without any access to legal process. He said that the government had the legal authority to prosecute newspapers and journalists for such disclosures.

A week earlier, on May 15, two ABC News reporters revealed that the FBI, at the request of the CIA, had been tracking their phone calls.

To condemn the FBI raid in no way implies political support for Jefferson or suggests he is innocent of the corruption charges. In fact, the rampant corruption in Washington, which involves both parties, with corporate money shamelessly used to buy congressmen and their votes, is itself a manifestation of the same process of political decay. Both parties are complicit in anti-democratic measures whose essential purpose is to defend the rule of a narrow financial elite that is enriching itself by driving down the living standards of the broad mass of working people.

In this case, the Bush administration used allegations of corruption as the pretext for a further assault on the constitutional principle of the separation of powers between co-equal branches of government—executive, legislative and judicial—so as to move further toward the establishment of a presidential dictatorship.

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