

Hillary and the FBI. Emailgate is but the “Tip of the Clintons’ Criminality”

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Global Research, July 06, 2016

Region: [USA](#)

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Tactics of minimisation have been central to Hillary Clinton’s political career. When stumbling takes place, go for the established book of deflection rules. When violations of the law take place, explain that it was normal at the time. Suggest that others had engaged in a form of conduct only subsequently frowned upon.

Such tactics should be kept in the dustbin of history. For the Clintons, they have consistently worked, giving that particular not so holy family a particularly nasty sense of political entitlement. They remain the ghouls of the US political establishment, paying (or rather withholding) tribute to the dead ideas of liberalism.

Evidently, the inappropriate use of a private server to conduct what were classified communications and potentially accessible to third-parties, did not seem grave enough a breach to warrant criminal charges.

That was the preliminary finding by the Federal Bureau of Investigation, which is concluding its investigation into Clinton’s use of a personal email system during her time as Secretary of State. The Bureau had received the referral from the Intelligence Community Inspector General seeking answers on whether classified information had been transmitted on that personal system during her time in office.

The statement by its director, James B. Comey, is worth noting, as it shows the extent the former First Lady and Secretary of State has managed to escape yet another pickle of systematic indiscretion. It also shows the degree of singularity Comey was offering his own statement.

He claimed, for instance, to have “not coordinated or reviewed this statement in any way with the Department of Justice or any other part of the government. They do not know what I am about to say.”

A rum sort of thing, especially given the prior remark that “the American people deserve those details in a case of intense public interest”. The only assumption one can draw from Comey here is that the FBI preferred to go it alone in this venture, bringing out the gory details less to inculcate the former Secretary than exonerate her.

There was a potentially two-pronged trap for Clinton: a felonious violation of a federal law on the subject of mishandling classified information either intentionally or a grossly negligent way; or the misdemeanour of knowingly removing classified information from “appropriate systems or storage facilities.” Investigations into possible intrusions were also made.

Comey's statement describes a mess. As Secretary of State, she used several email servers and relevant administrators, along with a host of mobile devices to view and convey emails via personal domains.

During the course of her stewardship at the Department, processes of replacement, storage and decommissioning took place. This compounded the problem, rendering the trail of messages fuzzy. The decommissioning in 2013 of one of the original servers, for instance, saw the removal of email software that was "like removing the frame from a huge finished jigsaw puzzle and dumping and pieces on the floor." Hardly a picture of well drawn propriety on the part of the Secretary.

As for the emails Clinton proudly claimed she supplied to the Bureau for perusal – roughly 30,000 or so – 110 in 52 chains were "determined by the owning agency to contain classified information at the time they were sent or received." Additional emails were also uncovered from the ether of deletions and archived email accounts of former employees, though these were generally deemed less significant.

The Bureau suggested that there was no clear evidence that Clinton or her aides "intended to violate laws governing the handling of classified information, there is evidence they were extremely careless in their handling of very extensive, highly classified information."

Comey speaks of his concern that many of the emails "should have been on any kind of unclassified system" a point made even graver by the fact that they "were housed on unclassified personal servers not even supported by full-time security staff, like those found at Departments and Agencies of the US Government – or even with a commercial service like Gmail."

Taking a snipe at another government organisation, the FBI also found that the State Department was distinctly lacking in a "security culture" of which use of unclassified email systems was symptomatic. As to the issue of intrusion into the personal domains by "hostile actors," a frank admission followed. While no evidence was detected, "we assess that we would be unlikely to see such direct evidence."

The final assertion is interesting, if only because it shows how the FBI has an inherently soft view about Clinton's conduct. This may not be surprising: the Clintons have been regular subjects of investigations by Comey's outfit. The failed Arkansas real estate deal which became Whitewater and the Presidential pardons in January 2001 remain key events.

Evidence of potential violations of the relevant statutes may well exist, but in the view of the Bureau, "no reasonable prosecutor would bring such a case." There was, in the view of the investigators, no instance of wilful mishandling or clear intent in dealing with classified information, or exposure on a scale suggesting "inference of intentional misconduct".

Officials have lost their jobs for less. Administrative and legal sanctions, as admitted by Comey, have been levelled in similar circumstances. State bureaucracies, as Max Weber reminds us with solemn gravity, guard secrets and their use with fanatical intensity.

Not, it would seem, on this occasion. Clinton was spared, even if the FBI recommendation remains just that. It was a textbook outcome pointing to the failures of consistent approaches all too familiar to that of her husband. Yet again, this eel of history escapes the realms of legality with institutional dispensation.

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