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The FBI's Fake "Investigation" of Hillary Clinton's Emails

By Eric Zuesse
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On September 17th, U.S. President Barack Obama, the boss of the U.S. Government's Executive Branch — including of federal investigations and prosecutions (including of FBI decisons not to investigate, and not to prosecute) — said that, in this Presidential election,

> *"My name may not be on the ballot, but our progress is on the ballot," and that a voter's failure to vote for Hillary Clinton would be "an insult to my legacy."*

This statement by him provides useful background context behind the following news-report (and readers are urged to click onto the link at any point here wherever a given allegation's veracity is at all in doubt, to see the extensive documentation for it):

The FBI's 'investigation' into Hillary Clinton's State Department email operation was fake in three major ways:

1: The FBI chose to 'investigate' the most difficult-to-prove charges, not the easiest-to-prove ones (which are the six laws that she clearly violated, simply by her privatization and destruction of State Department records, and which collectively would entail a maximum prison sentence of 73 years). The famous judge Jed Rakoff hasaccurately and succinctly said that, in the American criminal 'justice' system, since 1980 and especially after 2000, and most especially after 2010,

> "the prosecutor has all the power. The Supreme Court's suggestion that a plea bargain is a fair and voluntary contractual arrangement between two relatively equal parties is a total myth. ... What really puts the prosecutor in the driver's seat is the fact that he — because of mandatory minimums, sentencing guidelines (which, though no longer mandatory in the federal system, are still widely followed by most judges), and simply his ability to shape whatever charges are brought — can effectively dictate the sentence by how he publicly describes the offense."

Columnist Debra J. Saunders put it this way: *"The mandatory minimum sentencing system effectively has allowed federal prosecutors to choose defendants' sentences by deciding how to charge them."*

If an Administration wants to be merely pretending an 'investigation', it's easy: identify, as the topic for the alleged 'investigation', not the criminal laws that indisputably describe what the suspect can clearly be proven to have done, but instead criminal laws that *don't*. Prosecutorial discretion is now practically unlimited in the United States. This discretion is an

essential feature of any dictatorship. It's the essence of any system that separates people into aristocrats, who are above the law, versus the public, upon whom their 'law' is enforced. It's the essence of "a nation of men, not of laws."

But, different people focus on different aspects of it. Conservatives notice it in Clinton's case because she was *not* prosecuted.Progressives notice it in Clinton's case because other people (ones without the clout) who did what she did (but only less of it), *have been* prosecuted, convicted, and sentenced for it. The result, either way, is dictatorship, regardless of anyone's particular perspective on the matter. Calling a nation like that a 'democracy' is to strip "democracy" of its basic meaning — it is foolishness. Such a nation is an aristocracy, otherwise called an "oligarchy." That's the opposite of a democracy (even if it's set up so as to pretend to be a democracy).

2: The FBI chose to believe her allegations, instead of to investigate or challenge them. For example: On page 4 of the FBI's record of their interview with Hillary dated 2 July 2016, they noted: *"Clinton did not recall receiving any emails she thought should not be on an unclassified system."*

But they already had seen this email. So, they asked her about that specific one:

> "Clinton stated she did not remember the email specifically. Clinton stated a 'nonpaper' was a document with no official heading, or identifying marks of any kind, that can not be attributed to the US Government. Clinton thought a 'nonpaper' was a way to convey the unofficial stance of the US Government to a foreign government and believed this practice went back '200 years.' When viewing the displayed email, Clinton believed she was asking Sullivan to remove the State letterhead and provide unclassified talking points. Clinton stated she had no intention to remove classification markings."

Look at the email: is her statement about it — that *"issues sending secure fax"* had nothing to do with the illegality of sending classified U.S. Government information over a non-secured, even privatized, system — even credible? Is the implication by Clinton's remark, that changing the letterhead and removing the document's classified stamp, would solve the problem that Jake Sullivan — a highly skilled attorney himself — had brought to her attention, even credible?

Well, if so, then wouldn't the FBI have asked Sullivan what he was referring to when his email to Clinton said *"They say they've had issues sending secure fax. They're working on it."*

The FBI provided no indication that there was any such follow-up, at all. They could have plea-bargained with Sullivan, to get him to testify first, so that his testimony could be used in questioning of her, but they seem not to have been interested in doing any such thing. They believed what she said (even though it made no sense as a response to the problem that Sullivan had just brought to her attention: the problem that emailing to her this information would violate several federal criminal statutes. Clinton, in other words, didn't really care about the legality. And, apparently, neither did the FBI. Her email in response to Sullivan's said simply: *"If they can't, turn into nonpaper w no identifying heading and send nonsecure."* So: she knew that it was classified information but wanted to receive it so that she would be able to say, "I didn't know that it was classified information." In other

words: she was instructing her advisor: hide the fact that it's classified information, so that when I receive it, there will be no indication on it that what was sent to me is classified information.

3: The FBI avoided using the standard means to investigate a suspect higher-up: obtaining plea-deals with subordinates, requiring them to cooperate, answer questions and not to plead the Fifth Amendment (not to refuse to answer). (In Hillary's case, the Obama Administration actually did plea-deals in which they allowed the person who was supposed to answer all questions, to plea the Fifth Amendment to all questions instead. This is allowed only when the government doesn't want to prosecute the higher-up — which in this case was Clinton. That alone proves the Obama Administration's 'investigation' of Clinton's email system to have been a farce.)

A plea-deal isn't a Constitutional process: Jed Rakoff's article explained why it's not. The process is informal, but nowadays it's used in more than 97% of cases in which charges are brought, and in more than 99% of all cases (including the 92% of cases that are simply dropped without any charges being brought). That's the main reason why nowadays «the prosecutor has all the power». Well, the prosecutor in Hillary's case (the Obama Administration) clearly didn't want her in the big house; they wanted her in the White House.

Investigative historian Eric Zuesse is the author, most recently, of They're Not Even Close: The Democratic vs. Republican Economic Records, 1910-2010, and of CHRIST'S VENTRILOQUISTS: The Event that Created Christianity.

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