
From: Ed DeVilbiss <eddevilbiss@gmail.com>
Sent: Wednesday, July 6, 2016 12:14 PM
Subject: Fwd: FBI Rewrites Federal Law to Let Hillary Off the Hook

Friends,

Another friend sent this to me. If you have not seen this from the National Review it is a good recap.

Source: <http://www.nationalreview.com/corner/437479/fbi-rewrites-federal-law-let-hillary-hook>

The fix was in-who was bribed or threatened beside Comey? There has never been an administration that has violated so many laws and received so little accountability. Comey rewrote the law to include 'intent' -which is irrelevant according to laws. Where are Speaker Ryan or Senate Majority McConnell Re this scandalous decision. Laws broken and the Clintons slime and grovel their way toward Whitehouse. TDP

THE CORNER THE ONE AND ONLY.

FBI Rewrites Federal Law to Let Hillary Off the Hook

Read more at: <http://www.nationalreview.com/corner/437479/fbi-rewrites-federal-law-let-hillary-hook>

by ANDREW C. MCCARTHY July 5, 2016 12:45 PM @ANDREWCMCCARTHY

There is no way of getting around this: According to Director James Comey (disclosure: a former colleague and longtime friend of mine), Hillary Clinton checked every box required for a felony violation of Section 793(f) of the federal penal code (Title 18): With lawful access to highly classified information she acted with gross negligence in removing and causing it to be removed it from its proper place of custody, and she transmitted it and caused it to be transmitted to others not authorized to have it, in patent violation of her trust.

Director Comey even conceded that former Secretary Clinton was “extremely careless” and strongly suggested that her recklessness very likely led to communications (her own and those she corresponded with) being intercepted by foreign intelligence services. Yet, Director Comey recommended against prosecution of the law violations he clearly found on the ground that there was no intent to harm the United States.

In essence, in order to give Mrs. Clinton a pass, the FBI rewrote the statute, inserting an intent element that Congress did not require. The added intent element, moreover, makes no sense: The point of having a statute that criminalizes gross negligence is to underscore that government officials have a special obligation to safeguard national defense secrets; when they fail to carry out that obligation due to gross negligence, they are guilty of serious wrongdoing. The lack of intent to harm our country is irrelevant.

People never intend the bad things that happen due to gross negligence. I would point out, moreover, that there are other statutes that criminalize unlawfully removing and transmitting highly classified information with intent to harm the United States. Being not guilty (and, indeed, not even accused) of Offense B does not absolve a person of guilt on Offense A, which she has committed.

It is a common tactic of defense lawyers in criminal trials to set up a straw-man for the jury: a crime the defendant has not committed. The idea is that by knocking down a crime the prosecution does not allege and cannot prove, the defense may confuse the jury into believing the defendant is not guilty of the crime charged. Judges generally do not allow such sleight-of-hand because innocence on an uncharged crime is irrelevant to the consideration of the crimes that actually have been charged. It seems to me that this is what the FBI has done today.

It has told the public that because Mrs. Clinton did not have intent to harm the United States we should not prosecute her on a felony that does not require proof of intent to harm the United States. Meanwhile, although there may have been profound harm to national security caused by her grossly negligent mishandling of classified information, we’ve decided she shouldn’t be prosecuted for grossly negligent mishandling of classified information.

I think highly of Jim Comey personally and professionally, but this makes no sense to me. Finally, I was especially unpersuaded by Director Comey’s claim that no reasonable prosecutor would bring a case based on the evidence uncovered by the FBI. To my mind, a reasonable prosecutor would ask: Why did Congress criminalize the mishandling of classified information through gross negligence? The answer, obviously, is to prevent harm to national security. So then the reasonable prosecutor asks: Was the statute clearly violated, and if yes, is it likely that Mrs. Clinton’s conduct caused harm to national security? If those two questions are answered in the affirmative, I believe many, if not most, reasonable prosecutors would feel obliged to bring the case.

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