2008

Over the Line: John Edward Lawler and FBI

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Over the Line: John Edward Lawler and the FBI

A thesis submitted in partial fulfillment of the requirements of the degree of Master of Art in History at Virginia Commonwealth University.

by

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Virginia Commonwealth University
Richmond, Virginia
December 2008
<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Table of Contents</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Introduction – History as Myth, Myth as History</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Chapter 1 – Early History</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td>Chapter 2 – The Making of an FBI Agent</td>
<td>21</td>
</tr>
<tr>
<td></td>
<td>Chapter 3 – Spies, Reds, Negroes, and Nips</td>
<td>31</td>
</tr>
<tr>
<td></td>
<td>Chapter 4 – The FBI in War and Peace</td>
<td>35</td>
</tr>
<tr>
<td></td>
<td>Chapter 5 – (Highly) Organized Crime in Richmond</td>
<td>60</td>
</tr>
<tr>
<td></td>
<td>Chapter 6 – Conclusion</td>
<td>70</td>
</tr>
<tr>
<td></td>
<td>Bibliography</td>
<td>73</td>
</tr>
</tbody>
</table>
Abstract

OVER THE LINE: JOHN EDWARD LAWLER AND THE FBI

By Gregory C. Hershey, Master of Art, History

A thesis submitted in partial fulfillment of the requirements for the degree of Master of Art in History at Virginia Commonwealth University.

Virginia Commonwealth University 2008

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The FBI is the most recognized law enforcement entity in the world. During its nearly 100-year history, the Bureau has been involved in many controversies, most as a result of straying from its stated mission to investigate violations of federal law. This survey is based on personal papers of the former head of the Richmond Bureau, John Edward Lawler. Fortunately for historians, these files, many of which exist nowhere else in the agency’s archives, open a window into the operational methods and investigative techniques of FBI agents. An examination of John Lawler’s career provides insight into the conduct of field agents and Agents in Charge of field bureaus during the 1940s.
On June 14, 1942 at 7:51 p.m., New York FBI agent Dean F. McWhorter received a phone call from someone wanting to speak to J. Edgar Hoover. Didn’t they all? The caller had arrived from Germany two days ago and he had big news, but he would not divulge over the phone. McWhorter took it all down and, after the caller hung up, followed standard procedure by filing a memorandum containing the caller’s name, Franz Daniel Postorius, and the message that he would call again from Washington in several days. Sure enough, two days later Postorius called the Washington office of the FBI, telling them he was now in the capital, and he wanted a meeting with Director Hoover. 1 The call was passed around starting with an Assistant Director and ending at the desk of Administrative Assistant to Hoover, John Edward Lawler. The caller began a confused litany that sounded like a confession, “[he] had half a million dollars, and… bombs,” and said he was staying at the Mayflower Hotel. Agent Lawler, thinking he was just “another nut… gone crazy,” told the man to come to his office. Shortly thereafter, however, Agent Lawler reconsidered his initial opinion, and sent agents to the Mayflower to search the man’s room. The agents were astounded to find a suitcase full of money and bomb making material. Mr. Postorius eventually showed up at FBI headquarters and confessed to being a German spy, the leader of one group of four saboteurs who had been trained by

1 The FBI’s website (http://www.fbi.gov/libref/historic/famcases/nazi/nazi.htm) mentions the caller’s name as “Pastorius.” A transcript of the Military Commission proceedings is at: http://www.soc.umn.edu/~samaha/nazi_saboteurs/nazi16.htm The transcript contains both spellings of the name.
German intelligence to sabotage U.S. industrial plants. Agent Lawler’s intuition had led to one of the most spectacular cases in the history of the FBI.²

The story, which became known as the Nazi Saboteurs Case, was sensational. On June 13, 1942, under cover of darkness, a German submarine had delivered four German intelligence officers to a spot just off Long Island, New York. Mr. Postorius was actually George Dasch, the group’s leader. The men’s kit bags were filled with explosives, detonators, identification papers, civilian clothing, and about $175,000 in American currency. Before committing a single act of sabotage, however, Dasch had a fit of conscience, or lost his nerve, and turned himself in. He ratted out his accomplices who were quickly found and arrested. For the Bureau, it was a public relations bonanza, which they fed with carefully tailored news releases about the events.³

There is one problem with this narrative, however; Lawler’s role in the affair was entirely fabricated. John Edward Lawler was not in Washington, D.C., in June 1942. He was at that time the Special Agent in Charge (SAC) of the Richmond, Virginia office. Lawler’s personnel file shows he was on special assignment in West Virginia starting in January of 1942 until he took sick leave from May 23 to May 31, at which time he “took numerous physical examinations to ascertain his troubles. He advised the [sic] he owned

² John Edward Lawler Papers, Special Collections Archives, James Branch Cabell Library, Virginia Commonwealth University, Accession Number M148, Box 1 Folder 1, Interview Transcript, 8 February 1980, 9. Hereafter, Lawler Archive.
his own home in Richmond and hoped the Bureau would permit him to stay in Richmond… until he could fully recover his vitality.”

Further, no account of the Dasch story mentions Lawler. In fact, his name is not to be found in the index of any source used for this survey. Agent Duane Traynor took Dasch’s call in the Washington office, and it was he who conducted the extensive debriefing of the German spy. Traynor sent agents to pick-up Dasch at the Mayflower Hotel, and it was only at FBI headquarters that he dumped money, quite a lot of money, onto the agent’s desk.

Who was John Edward Lawler? He was an FBI agent for fifteen years. Later, he was a practicing lawyer, a Richmond City Councilman, a successful businessman, and a husband and father. He was a member of the Commonwealth Club, the exclusive, all-male, all-white private institution reserved for the Richmond elite. He was by most accounts honest, dependable, and God-fearing, clearly an accomplished and respected man.

As an FBI agent, he took the moral high ground on juvenile delinquency: “It’s your duty and my duty to do everything within our power to guide our children of today so they will live a law abiding and useful life.” As a lawyer and respected businessman, he wrote a newspaper editorial in which he stated, “In my opinion, the best prevention of juvenile crime is a belief in God and obedience to the commandments of God.”

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4 FOIA Request 1047552-000, 1 September 2006, Personnel File, John Edward Lawler.
5 Lawler Archive, Box 2 Folder 28, Handwritten notes for “Report on Juvenile Delinquency.”
6 FOIA Request 1047552-000, Personnel File, John Edward Lawler.
And yet, at age 74 he was found bludgeoned to death inside his home. As the investigation progressed, the story changed from a tragic one into a tawdry one. Sources told the *Richmond Times-Dispatch* that Lawler “liked to socialize with prostitutes…. He was especially fond of girls under 16 years of age.” Lawler had an ongoing relationship with one such young woman. She and her older brother were both arrested in connection with his murder. Three months before his death, one of Lawler’s daughters was arrested for prostitution, and her boyfriend for pimping her out, and for running a bawdy house.

Such are the contradictions and complexities of the man whose records form the basis of this narrative. Knowing this, perhaps it is easier to understand the unsentimental reflection upon human nature he made near the end of his life: “I used to always say that there is no man that will be able to put on a piece of paper everything he’s done and nail it up at Ninth and Main Streets and be able to stay in the city of Richmond twenty-four hours thereafter.”

Lawler told the story of his exploits in the Nazi Saboteurs Case in an interview. It seems harmless enough. The story is for the most part true, and if an old man (he was 72 at the time), justifiably proud of his accomplishments, adumbrates a little and inserts himself into one of the more exciting adventures in American history, one might regret the embellishment while still admiring his remarkable career. But this incident serves as a metaphor. In effect, the FBI and Lawler have done much the same thing in distorting, or

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8 Ibid.
9 Lawler Archive, Box 1 Folder 1, Interview Transcript, 12.
10 Lawler told this story to an archivist as part of the process of turning over his papers to Cabell Library Special Collections. The interview was recorded on a cassette tape; the interview transcript is part of the Lawler Archive.
even willfully manipulating, facts in such a way as to transmogrify history. In their versions, Lawler and the organization he served both come out looking much better than historians might allow.

Just as Lawler inserted himself into a heroic account of smashing a Nazi spy ring, the FBI, over the course of its entire existence, has massaged reality to an extent that the Bureau has its own narrative of events that it calls history. This has been going on for so long, and is so pervasive, that a truly objective history of the Bureau is almost impossible to construct. To study the Bureau and its history is to embrace a paradox – like the tip of an iceberg signifies that surface appearances are deceiving, what is known of the Bureau’s history reveals that much is hidden, perhaps never to be fully revealed.

The history of the FBI has been ghostwritten. From its earliest years, agency leadership, corrupted by patriotism, secrecy, greed for power, or some motley combination thereof, constructed chapter and verse outlines of this spurious story. The tone was defensive, artless, dogmatic and heavy-handed. Media propagandists hired to sex up the story provided the art; in the process, they juiced the details, distorted facts, and packaged the FBI like any commodity. In short, they wrote fiction, historical fiction perhaps, but fiction nonetheless. The American public, including Congress and Presidents, provided the last crucial ingredient – suspension of disbelief on a societal scale. The public, at least, had an excuse - they were deliberately deceived by the Bureau. Congress and Presidents cannot make such an exculpatory claim. Nonetheless, the public was not paying attention, and it helped to feed the myth, vagabonding its way through the twentieth century like a freewheeling hobo.
In this respect, though believing it suffers from periodic infections, the FBI’s flaw is genetic. At its best, the Bureau was (and still is) a very effective and formidable investigative agency. But it became an intelligence apparatus as well, a compromise that played to its weaknesses, while diminishing its strengths. Throughout its history it has suffered periodic bouts of incompetence and complacency; it has suffered from poor leadership, a hidebound bureaucracy, and a fatal lack of imagination. The Bureau developed a selective memory, carefully cultivating an idealized version of its history that is dangerously inaccurate. It has lied to itself about who it is, what it has done, and why it has done what it has done. This then became the ‘history’ of the Bureau, a history perpetuated even today. There is even a Bureau historian to legitimize the myth. In a telephone interview, Dr. John Fox made some remarkable assertions about the agency, its history, J. Edgar Hoover, and the objectivity of independent historians who have studied and written about the FBI.¹¹

The debit column in the history of the FBI has two main entries: abuse of its power, and failure of its duty. The former resulted from a lack of congressional and presidential oversight, an intractable conservative ideology, and a dedication to secrecy for its own sake. This account will only briefly address oversight, as the focus is more on the Bureau’s self-identity, and self-regulation or lack thereof. The latter issue is a little trickier, for all large bureaucracies move at their own speed.

Witness historian Athan Theoharis, who has spent nearly thirty years researching and writing about the Bureau. In his most recent book, he reaches the following

¹¹ Telephone interview with Dr. John Fox, FBI historian, 24 April 2006.
conclusion: “A comprehensive history of the FBI cannot be written.” There is much bitter experience behind this assessment. Using the Church Committee reports and the updated Freedom of Information Act (generally known as FOIA) laws in the late 1970s, Theoharis did pioneering work on the issue of wiretapping and presidential authority, and has been at it hammer and tongs ever since.

Bureau historian John Fox thinks Theoharis employs a “radical libertarian critique of the Bureau,” that he “has looked at the material too narrowly, has taken a narrow selection of documents” in order to make his case. This critique is disingenuous, for only someone with nearly unlimited access to the Bureau’s historical files could support this claim. It is simply too difficult and too expensive for an independent researcher, even one as experienced as Theoharis, to obtain documents from the Bureau for this claim to be meritorious.

This is the most formidable obstacle to those who would study the FBI - agency secrecy. This secrecy is to some extent sanctioned by law. It was only in the 1970s that the FBI released files, under pressure of course, to the National Archives. The incendiary Church Committee Reports (the first in 1974) pried secrets from Hoover’s cold dead hands. It forced amendments to the Freedom of Information Act, which allowed researchers to submit requests for Bureau files. Today, FBI files from any year after 1922 are unavailable to the public, and can be obtained only by filing a FOIA request. Even

13 Telephone interview with Dr. John Fox, 24 April 2006.
14 The Bureau does make available to the public certain files, such as the Famous Cases Archive on their website in the Electronic Reading Room. These are accounts of sensational cases, which show the Bureau in a positive light. They are also highly selective accounts. In short, they are propaganda. See
so, the Bureau’s filing system is Byzantine in its complexity, and the Records Division, in charge of fielding FOIA requests, only stultifies attempts to pierce the armor of secrecy.

This is merely to demonstrate that a ‘history’ of the FBI does not tell the whole story. Too many files have been destroyed; too many files are arbitrarily withheld. And, in February 2006, it was reported that previously declassified Department of Justice files are being reviewed in secret by Department henchmen for reclassification. The newly reclassified (undeclassified?) files were physically removed from the National Archives, no longer accessible to researchers.15

Strangely enough, there is some precedent for this retroactive whiting out of the record. The master sanitizer, J. Edgar Hoover, literally altered history when he sent a team of five agents armed with scissors and razor blades to the National Archives to excise derogatory passages about himself and the FBI from the newly released diaries of FDR’s Treasury Secretary, Henry Morgenthau. It took several weeks of cutting, renumbering, and reassemblage. Librarians at the Roosevelt Presidential Library found that FBI reports previously present among FDR’s papers were missing. Comparisons between reports extant in the Roosevelt Library against copies of the same reports obtained elsewhere clearly show either alterations to files, in that documents were edited and retyped, or that entire sections of the report had been removed. Library of Congress archives were also ransacked. Shortly after Felix Frankfurter, whom Hoover loathed, 


15 “Declassification in Reverse,” at www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB179/
turned his diaries over to the library sections from them were stolen. Notable by its absence was a speech by Frankfurter that roundly criticized the Bureau and its Director.\textsuperscript{16}

Richard Gid Powers has spent his professional career studying and writing about the Bureau. He is, arguably, the preeminent chronicler of the past and present history of the FBI. Powers’ most recent book is a distillation of his career’s work. It begins with this melancholic reflection, “This is the history of an American tragedy. The story of how as great an American institution as the FBI could become so traumatized by its past that it failed its duty to the nation it was sworn to protect.”\textsuperscript{17}

My contention is that the Bureau wasn’t traumatized by its past because it continuously misrepresented it, to such an extent that this willful selection of facts became history, the agency’s authorized version. The trauma, when it occurred at all, came when the Bureau’s illegal operations were exposed to public scrutiny. The trauma was that of a man caught in flagrante, a man who could no longer deny his guilt with a straight face.

There was no one better at this sort of duplicity than J. Edgar Hoover. From 1924 to 1972, he was the paranoid brain and blackened heart of the agency. History has not been kind to Hoover; the evidence is simply too damning. That is, what evidence is extant, and of that, what is made available. After his death, Helen Gandy, Hoover’s trusted and loyal secretary, testified that she spent two and a half months destroying his


secret file stash, at least six file cabinets worth, consisting of those documents deemed too sensitive to place in the agency’s main system.\(^{18}\)

Not much is known about Hoover’s private life. It is generally accepted that he lived for his work. Most biographers have gone about finding the man by examining the agency. The results have been uneven. Anthony Summers’ biography is essentially a whisper campaign.\(^{19}\) Richard Powers worked to place Hoover into the context of the times. He argued that, despite his many flaws, Hoover was a consummate professional.\(^{20}\) Curt Gentry’s journalistic account painted a persuasive and damning portrait of Hoover and his twisted ego, but he doesn’t much bother with placing him into an historical context.\(^{21}\) Theoharis, who knows the documentary evidence better than anyone, examined Hoover within a political context. He argued that Presidents, Congress, journalists, and the American public were complicit in allowing Hoover to remain in power.\(^{22}\)

None of these biographies is entirely satisfying, none entirely convincing. To this day Hoover remains an enigma, but there is this much consensus: he didn’t, or couldn’t, change with the times. He became an anachronism, but, like a revolver in a semi-automatic world, he was always potentially dangerous. When the full catalogue of FBI abuses perpetrated on Hoover’s watch became known it was as long and as bewildering

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as a Chinese restaurant menu. He remained (or was allowed to remain) too long in power. After his death the agency suffered the plague of his legacy, making agent’s already difficult jobs much more difficult. The following assessment is apt, “J. Edgar Hoover… was our most enduring national scandal.”23

Another, and perhaps the more important, consensus among historians is about what remains to be done. As Theoharis stated, “The story of [the FBI’s] institutional politics remains to be told.”24 Another scholar echoed this theme, wondering about “the massive and unquestioning support he received from thousands of FBI agents…. Why they did not blow the whistle on him is a subject worthy of analysis…. More interesting still is why… [college professors] have yet to incorporate his abuses into their basic courses and textbooks.”25

During his tenure, Hoover and his memory, his twisted version of ‘history,’ defined the Bureau. Not all agents bought it, of course, but through careful screening and the selective winnowing of freethinkers, the Bureau was able to harness enough agents to the wheel to push the myth forward. One agent stated plainly that under Hoover a culture of corrupt compromise “became part of our thinking, part of our personality.”26 SACs and field agents, the blood and guts of the operation, fed and groomed the FBI’s institutional mythos. Many believed in Hoover and wholly supported his ideology and his methods. Other agents kept faith for reasons of their own, acting in ways that were

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consistent with the mythology, but that were contrary to the Constitution.

Such a man was John Edward Lawler. In 1982, he left his papers to the Cabell Library at Virginia Commonwealth University in his hometown of Richmond, Virginia. He culled the collection before he turned it over. Even so, what remains is a trove of unredacted primary source material, much of which is not available anywhere else.27 Subjecting the Bureau’s autobiography to the burden of available evidence will clearly show disparities between history and the propagated myth.

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27 My FOIA requests for certain documents found in the Lawler Archive came back with the dread “No files were found” tag. Whole reports in the Lawler archive are found nowhere else in the FBI’s files, if the Records Management Division is to be believed.
Early History

The Constitution provided for no agency to enforce federal laws. States rights were clearly protected from federal interference, and, as federal laws were matters of national interest and had little applicability to everyday crimes, law enforcement was necessarily a local and state responsibility. Soon though, particularly during Reconstruction, the need for a federal enforcement arm became glaringly apparent. But it wasn’t until the early Progressive era that the movement gained enough momentum to make such a force a real possibility.

As part of his Progressive ideal for societal reform and a more activist federal government, Teddy Roosevelt proposed the creation of a new federal detective agency. Congress loudly decried the wisdom and legality of establishing such a force, citing a usurpation of power by the executive branch. The heat generated by this controversy was unsurprising as one of the main tasks of the new force would be to investigate corruption, the taint of which adhered to many in Congress. Richard Powers maintains that the agency “was born out of the progressive struggle to end corruption in government and bring to justice malefactors of wealth…. Teddy Roosevelt founded the Bureau because the federal government, and only the federal government, had the power to bring criminals of power and wealth to justice.”  

The generally accepted date for the establishment of the Bureau of Investigation is 1908. The new federal agency’s first nationwide law enforcement responsibility was

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28 Powers, Broken, 61.
under the Mann Act. It was 1910 and the Bureau did not yet have its sea legs. Most historians now see the Mann Act as social moralism gone awry.\textsuperscript{29} The legislation was drafted, hazily, lazily, to combat the so-called White Slave Traffic, or commercialized vice. Bureau Chief Stanley W. Finch cynically exploited societal fears of corrupted womanhood to shake down Congress for appropriations. He testified, “Unless a girl was actually confined in a room and guarded, there was no girl, regardless of her station in life, who was altogether safe…. There was a need that every person be on his guard, because no one could tell when his daughter or his wife or his mother would be selected as a victim.”\textsuperscript{30} J. Edgar Hoover would later say, without irony, that the Mann Act made “the problem of vice in modern civilization” the main business of the Bureau before the war.\textsuperscript{31}

The defense of feminine virtue served to establish the Bureau in the intelligence gathering business. This would become the elephant’s skeleton in the closet. Occasionally down through the subsequent decades, the public would get a glimpse of the depth and breadth of the Bureau’s intelligence apparatus, but it wasn’t until the Church Committee reports of the 1970s that the issue would explode into the public consciousness. The long winding road from investigation to intelligence, paved as it may have been with good intentions, began with Mann Act investigations.

\textsuperscript{29} The Mann Act is still a federal statute. It surfaced most recently in March 2008 as part of the prostitution scandal and the subsequent investigation of New York Governor, Eliot Spitzer. http://www.alternet.org/sex/80159/.
But from 1910 through 1917, the height of Mann Act enforcement, the devil had not yet drafted the Faustian bargain that would later cause scandal for the Bureau. He was, however, sharpening his pencils. Bureau field offices were set-up in cities across the country, and agents, finding themselves in unfamiliar territory, looked to the local police for information and guidance. The locals knew exactly where to take their virgin friends – to the brothels. The local madams and their girls were interviewed, or subtly threatened, into providing information for what would become surveys of local vice. This could be slightly awkward at times, as local power brokers, leading businessmen, and policemen on the take were sometimes implicated in moral turpitude and other unsavory activities. But it was a windfall for the Bureau. Agents learned the ace-in-the-hole value of sensitive personal information squirreled away in Bureau files, the importance of good relations with the local police and informants, and the limits of their own, and Bureau, power.

The legacies of Mann Act investigations were the Bureau’s preoccupation with private morality at the expense of criminal investigations, the establishment of a dossier system on individuals that included personal information of a very sensitive nature, and a greatly expanded bureaucracy. The Bureau needed only a new mission to utilize these new powers and responsibilities. It would soon enough find it had all it could handle when the world went to war in 1914.

The conduct of the FBI during these years, roughly 1914 to 1924, would set precedents that were hard to shake. When the Bureau was mired in scandal some fifty years later, those who knew the history of the Bureau could see in the excesses of the day shadows from this earlier era. Illegal detentions, warrantless searches, break-ins, bugs, taps, opening of mail – all these procedures were pioneered by FBI agents in the 1910s.
and early 1920s. There were refinements made over the years, many made possible by advances in technology.

Field agents and SACs were slowly poisoned with the belief that this was all in the service of a greater good, but their personal justifications for conducting illegal operations became increasingly abstract and difficult to justify. Bit by bit, the devil had his way, and the pact was signed. It was these very agents and SACs who perpetrated the excesses, who carried out orders they knew to be extra-constitutional. As we shall see, it is agents like John Lawler that history must render verdict upon.

World War I presented formidable challenges to the institutions of American democracy, a challenge that resonates in 2008 with the same intense clarity that it did in 1917 – how to ensure national security while protecting constitutional rights. Like every season that leads to war, it was a complicated historical moment. And, according to historian David B. Davis, America was not prepared:

Historically there has been little need to organize a professional corps of counterespionage agents to keep track of spies or to counteract foreign efforts to mobilize domestic dissidents. Consequently the history of American intelligence operations has been marked by decentralization, amateurism, and jurisdictional rivalry, all of which were encouraged by the constitutional division between state and federal powers and by a native preference for private enterprise. As late as 1917 on the eve of America’s entry into World War I, the nation had precisely two army intelligence officers and no professional counterespionage agency.  

With new field offices in most large cities the Bureau was in an enviable position among the gaggle of government and private detective agencies jockeying to take charge

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of spy catching. The Bureau’s experience on the home front in World War I would be, in many ways, a formative experience for the agency.

There was a logic and a momentum to agency activities. Much of what concerned the Bureau was dictated by events outside its control, but it sinned, and it sinned in full view of the church. Mann Act investigations bled into spying on labor unions and the formation of an extensive archive on radicals, Communists, and others deemed subversive, for the agency assumed “that immorality is a handmaiden of radicalism.”33 From there it was a short step to spying on Communists, dragnet raids, and surveillance based on political affiliations. In short, “Because it [was] so efficient, surveillance… transformed itself from a means into an end.”34

All these tactics, and more, were used by the Bureau in the infamous Slacker Raids, the Palmer Raids, and in their investigations into the Teapot Dome Scandal. By 1924, the Bureau was reeling due to internal corruption and public outrage over the excesses committed in these events. The remainder of the decade was a blur of scandal and partisanship. Three successive Republican administrations unleashed corporate America to feed at the trough of capitalist profiteering, unhindered by accountability, oversight, or restraint.

Then head of the Alien Enemy Bureau, J. Edgar Hoover, sharpening the axe of communism against the stone of national security, broadened his investigations to include “the studying of matters of an international nature, as well as economic and industrial

34 Ibid., 7.
disturbances incident thereto.”35 The Bureau infiltrated labor unions, workers groups, radical groups, and any other organization thought to be affiliated with Communists. Filing cabinets bulged with information never to be used for prosecutions of crime. This information was, however, shared with business interests who used it to thwart strikes, union organizing, work stoppages, and other worker actions.36

Despite his intimate involvement in the Slacker Raids, the Palmer Raid, the Teapot Dome Scandal, and other unsavory doings, and due to the untimely death of President Coolidge’s appointed Director, J. Edgar Hoover was chosen to head the Bureau. It was a fateful choice.

When he took over in 1924, Hoover was hardly unknown. At the time, he seemed an unlikely, if not unpopular, choice to head the Bureau. His career began humbly enough. Shortly after the US entered the First World War, the Justice Department hired the former Library of Congress cataloguer and card index maven as a clerk. Based on these administrative and organizational skills, he was later assigned to the Alien Enemy Bureau, where “He… gained experience processing aliens, determining who should be interned, who turned over to the Immigration Bureau for deportation, and who should be freed. The grounds for holding or deporting aliens tended to be political, based on their membership in anarchist or other antiwar groups. By the end of the war Hoover had an expertise on radical aliens that was probably unmatched in the Justice Department.”37

37 Powers, Broken, 109.
The previous sentence may or may not be true. If it is true, it is not saying much.
Whatever expertise on radicals and communists there was in the Justice Department should not be confused with an objective knowledge based on historical research divorced from ideology. One Bureau agent, whose job it was to know such things, testified before a congressional committee, “German socialism… is the father of the Bolsheviki movement in Russia, and consequently the radical movement which we have in this country today has its origin in Germany.”³⁸ Apparently, all revolutions had the same Teutonic mother.

By the time the Depression hit, the Bureau was in a curious position in its history. It had weathered the Red Scare, the scandals of the 1920s, and retrenchment and reorganization. Hoover had survived it all. He oversaw desperately needed reforms and for the most part kept a low profile. He had made his reputation first as an anti-radical foot soldier of capitalism, but he later morphed into other roles, such as an anti-Communist ideologue, a Cerberus of secret files, the captain of a federalized surveillance network, and finally in the mid-1930s, as the peerless G-man.

One curious omission from Hoover’s curriculum vitae was scourge of organized crime. During Prohibition, criminal rackets had over time accomplished what the bane of western civilization, Communism, could not – they had built a clandestine empire that threatened the founding institutions of American democracy, particularly the rule of law. These criminal gangs were the worst kept secret in the country. They were not a secret to the FBI either, but for ideological reasons Hoover maintained (and continued to insist for thirty years afterwards) that organized crime did not exist.

³⁸ Lowenthal, The Federal Bureau of Investigation, 49.
While G-men picked off desperadoes such as John Dillinger and Baby Face Nelson one by one, crime bosses and racketeers constructed a sophisticated interconnected alliance of moonshiners, bootleggers, distributors, policemen, politicians, and so on – a paradigm of the vertical integration business model. These syndicates were rolling in cash. The corrosive effects of these absurdly well-funded enterprises ate away at the foundations of American society. While Hoover fiddled, crime burned through the major cities. Straight, with no-irony chaser, he denied there was a conspiracy called organized crime; he was too busy ghosting after communists, spying on his critics, and propagandizing his pyrrhic victories over immorality and vice.

Simply put, the Bureau had an abiding interest in not tackling organized crime. It chose its battles based on the chances for a successful investigation, and the publicity resulting therefrom. This publicity could then be leveraged to obtain increased funding, and glory for the agency and its director. Communism was a different story. The Bureau was blinded by ideology; it never understood Communism, or Communists. It did, however, fully comprehend and exploit the confusion and insecurity many Americans felt about the party’s revolutionary political philosophy. The FBI spent an enormous amount of time and wasted vast resources on surveillance, tapping, bugging, and otherwise investigating Communists, or those who were sympathetic to Communism as a political ideology. Sympathy for the cause, fellow traveling, was enough to damn anyone in the eyes of the Bureau.
The Making of an Agent

In the history of the FBI, the year 1935 is of no burning significance. The bad news was that the country was in the midst of the Depression. The good news was that the Eighteenth Amendment had been repealed two years earlier – Prohibition was over and not a moment too soon for the many employed only in the unskilled labor of killing time.

It was in 1935 that the Bureau of Investigation became the Federal Bureau of Investigation, an upgrade meant to reflect the burgeoning, some would say intrusive, federal presence in American society. Also, in July of that year, the FBI inducted a new agent, John Edward Lawler, the standard government-issue G-man: young, white, single, conservative Southern male with a law degree.

Lawler was born in 1908 in Mobile, Alabama, son of parents prosperous enough to send him to a Jesuit boarding school. He graduated from Spring Hill College in Mobile in 1930, and from Georgetown University of Law in 1935, passing the District of Columbia bar that same year, and the Virginia bar the year following.39

Lawler entered FBI school on July 1, 1935.40 At the Quantico, Virginia, training facility, he and his fellow recruits got a crash course in the nuts and bolts of police work.

40 FOIA Request 1047552-000, Personnel File, John Edward Lawler.
Training lasted for three months and was highly regimented. It included “firearms training; jurisdiction of FBI; mechanics and techniques of surveillance, arrest, search and seizure; federal procedure, investigation methods, crime scene search, scientific crime detection, crime research, and practical case work.”\textsuperscript{41} This was followed by field training in Washington, D.C., and a short stint at Bureau headquarters, or the Seat of Government (SOG). Seat of Government was not an ironic moniker bestowed by wiseacre field agents, but the official designation used by Bureau leadership.

The most important training of new recruits was a forced march into the realm of Bureau fabulism. At Quantico, Lawler and other agents-in-training were force-fed a diet of purified ideology, unleavened conformity, low dogma, and high principle. There were typically fifty men per candidate class, but “no blacks, no Jews, or Hispanics… this was Hoover’s policy.”\textsuperscript{42} Out of the gate, candidates were “heavily indoctrinated with radical right-wing propaganda.”\textsuperscript{43} Individuality, a sense of humor, irony, drinking, baldness, pinheadedness, bad skin, poor hygiene, and irreverence were strict liabilities, though not all were mentioned in the manual. Each class contained two or three snitches who monitored and reported upon apostasy in the ranks. The Supreme Court, homosexuals, Negroes, labor unions, the NAACP, the ACLU, reporters, Communists, radicals, syndicalists, politicians of a certain faith – these, and others considered by Hoover to be dangerously liberal, were repeatedly disparaged during the three month training.

Before becoming an agent, Lawler had shown disturbing signs of liberalism. While working toward his law degree, he clerked at a grocery store at 16\textsuperscript{th} and R streets

\textsuperscript{41} Lawler Archives, Box 1, Tour Manual, page 10.
\textsuperscript{42} William C. Sullivan, \textit{The Bureau: My Thirty Years in Hoover’s FBI} (New York: W.W. Norton, 1979), 16.
\textsuperscript{43} Cook, \textit{The FBI Nobody Knows}, 3.
in Washington, DC. From there, he watched General Douglas MacArthur march on the Bonus Army veterans bivouacked nearby. Like many at the time, Lawler believed the scale of suffering during the Depression had a humanizing effect, “In those days and times, we were all on the march. We were all in the same boat. Nobody had anything. Everybody was in sympathy of somebody getting something.” He sounded sincere, empathetic and damn-near socialistic.

Instructors at Quantico were chosen more for the purity of their faith than their expertise in police matters. Most instructors had had long tenures at the Seat of Government, where Hoover could more closely watch over his errant flock. They had been long divorced from the particular demands of fieldwork; they were pencil squeezers, yes men, true believers. What they successfully imparted to their charges was the importance of “discipline, uniformity of appearance, and paperwork perfection.”

Fortunately, Lawler excelled at each of these, and later lectured at the academy. Reviews of his performance reveal “that he was very thorough particularly in answering questions… but [he] gave a somewhat colorless presentation… and some of his mannerisms while talking detracted to a great extent from the effectiveness of his presentation.”

Agent memoirs are chock-a-block with the vagaries and recriminations of the training regime, wherein small errors yielded gross punishments. The heathen recruits were steeped in the golden rule – Do nothing to embarrass the Bureau or the Director, not necessarily in that order. One former agent remembered, “The Manual of Rules and

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44 Lawler Archives, Interview Transcript, Box 1 Folder 1, 1.
46 FOIA Request 1047552-000, Personnel File, John Edward Lawler.
Regulations was the Old Testament for the Bureau, laying down rules of personal conduct that were as punitive and unforgiving as the ancient laws of the Hebrews. This manual contained the revealed word of the Director and catalogued most of the [transgressions] that could be committed by an FBI agent.47

Successfully completing the training course did not guarantee graduates a career in the FBI. The whims of the Director were legendary, and arbitrary dismissals were not uncommon. Hoover attended agent graduations, which always sent trepidation rippling through the ranks, recruits and instructors alike. After one such ceremony, Hoover announced before his departure that one of the graduates, a “pinhead,” was to be fired immediately. A crisis ensued among the instructors - who was the pinhead? Finally, after several days, the Bureau’s resident genius thought to check hat sizes; the “pinhead,” he of the smallest head, was found and fired.48

Lawler remembers his graduation from Quantico as the first time he laid eyes on the Director. Hoover presented the farewell address, telling his new recruits, “Go out and I know you are gonna have fun and enjoy yourself, but don’t get caught.”49 For Lawler, these were words to make a career by.

Before sending them into the cold, cruel world, the Bureau evaluated its virgin agents. Lawler was rated as “about average as to coordination of mind and muscle, he was small of stature… was amenable to discipline, was possessed by good assurance and good judgment… was well equipped with a knowledge of the Bureau’s policies and regulations, and his chances for advancement along administrative lines were somewhat

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48 Ibid.
49 Lawler Archive, Interview Transcript, Box 1 Folder 1, 5.
hampered because of his small stature but it was believed he had above average general mental qualifications.”

This obsession with Lawler’s “small stature” is both fascinating and perplexing. Nearly every Bureau fitness report written throughout his career mentions it. His personnel file lists him as five feet eight inches tall, and one hundred and thirty pounds. For the FBI, shortness was a liability that prohibited advancement; that Lawler eventually rose as high as he did, no pun intended, was testament to hard work, adherence to the company line, and sycophancy.

An agent’s first three to five years were a probationary period of sorts, as he transferred yearly to new cities and assignments to gain experience. Agents saw this as another form of control, a tacit acknowledgement that they served at the whim of the Director. It prevented agents from forming alliances, a threat in Hoover’s eyes, and kept them in a state of agitated insecurity.

There were no guarantees of job security, even for veteran agents who had served admirably for many years. Hoover once transferred twenty-five SACs at the same time, for no discernable reason. Lawler would encounter this later in his career. While serving as SAC in Richmond, he was suddenly “placed on special assignment… [in] West Virginia. As a result of his health and the condition of his wife who was recovering from giving birth to a child he requested to be relieved of this special assignment…. He was advised that his wishes could not be conceded with.”

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50 FOIA Request 1047552-000, Personnel File, John Edward Lawler.
51 Ibid.
53 Marston and Welch, Inside Hoover’s FBI, 5.
54 FOIA Request 1047552-000, Personnel File, John Edward Lawler.
very quintessence of FBI policy under Hoover. Bureau leadership considered an agent’s concern for the health of himself, his wife, and his new baby as a concession, which needed to be resisted.

As for investigations and police work, these arbitrary transfers were counterproductive. Agents weren’t able to develop a lasting rapport with potential sources or informers. Logistically, agents had to learn quickly how to navigate in an unfamiliar environment. It served Hoover’s paranoia, but did little for morale, efficiency, and the stated mission of the Bureau: investigations. In short, everyone not at SOG was a potential threat, “FBI cases were made in the field, which made field agents indispensable. That in turn meant… that the field was the ultimate threat to the Director.”

For a family man, a yearly move was almost an invitation to divorce-court, although, as agents would have joked had a sense of humor not been systemically ground out of them, divorce was strictly against Bureau policy. Lawler, a bachelor, started his career in Buffalo in October 1935, chasing down federal fugitives between snowstorms. The pay was $3200 per annum. He received high marks from the Buffalo Special Agent in Charge, who commended him for a “neat appearance… a good personality… an excellent knowledge of the Bureau’s work,” and for being “a good worker… it was believed he possessed latent administrative ability which would be brought out with further experience, his reports were thorough and dictated well.”

In keeping with the policy of yearly transfers for junior agents, Lawler left wintry Buffalo for sunny Los Angeles in April 1936. The L.A. bureau advised headquarters that

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55 Marston and Welch, *Inside Hoover’s FBI*, 4.
56 FOIA Request 1047552-000, Personnel File, John Edward Lawler.
Agent Lawler was thorough, had good judgment and sound knowledge of his duties. Mention was again made of his height, “While small in stature he inspired confidence in all types of persons, although he might not make a good first impression.” Again, he was thought to have “latent administrative ability.”

In January 1937, he moved to Washington, where he sat in the Investigative Division tracking down stolen automobiles. During his stay in Washington from 1937 to August 1939, he received additional training at Kidnap Squad School, where he sat on the major case desk, and then he received field training in intelligence operations. His supervisors remarked that he had “certain definite qualities of leadership and ability to command others,” and it was thought that, given time and the proper encouragement, he might someday make a “satisfactory Special Agent in Charge.” But his height and appearance were a problem, “He possessed considerable ability which was somewhat obscured by his rather boyish and immature appearance and this appearance handicapped him.”

Despite these shortcomings, Lawler possessed two specific qualities that ensured him success within the FBI bureaucracy – his administrative abilities, and his loyalty. Fitness reports repeatedly mention “his ability in the supervisory, administrative and executive field.” He was a good bureaucrat, so good that, according to his version of events, he was assigned as Administrative Assistant to Director Hoover.

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57 Ibid.
58 Ibid.
59 Ibid.
The chronology here gets a little murky. Here is what is known: in August 1939 he became SAC in Richmond; one year later, he transferred to Washington; after only two months, he received orders to report to the New York office. Lawler then tendered his resignation, citing health concerns. It took only two days, however, until he thought better of this decision and withdrew his resignation. At this point, “The Director instructed him to take sufficient time away from work to thoroughly regain his former good health.” It’s not clear whether Lawler resigned to forestall his transfer or if his health concerns were critical. In any event, his appointment to the New York office was cancelled, and he returned to Richmond.

I could find no confirmation for Lawler’s claim to be Administrative Assistant to Hoover in his personnel file. In fairness, the document is vague in some areas. The file states only that he was transferred to “the Administrative Division at the Seat of Government.” There is no mention of his being specifically assigned to the Director. This may be another of Lawler’s embellishments, a form of verbal aggrandizement, in that, technically, all employees of the Administrative Division were ‘Assistants’ to Hoover. The personnel file is unclear on this point.

Whatever the case, Lawler thought himself excellently qualified to be an Administrative Assistant, a position he described as being “sort of a desk sergeant.” He claimed that his working relationship with Hoover was positive, “I knew what he wanted, what type of memorandum, the type of information he wanted, knew how to present it to

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60 This is confirmed by the *Times-Dispatch*: “New FBI Agent Arrives in City,” *Richmond Times-Dispatch*, 30 August 1939, 6.
61 FOIA Request 1047552-000, Personnel File, John Edward Lawler.
62 FOIA Request 1047552-000, Personnel File, John Edward Lawler.
63 Lawler Archive, Interview Transcript, Box 1 Folder 1, 5.
him, and in that way I traveled with him on all the major cases that he undertook to be at.”  

Memoranda indisputably authored by Lawler show that he came to master the flat, dull, workmanlike prose so beloved by law enforcement organizations nationwide. That must have suited the Director just fine. For his part, Lawler greatly admired and respected his boss. Thirty years later, Lawler still thought Hoover “a great man. He was great leader [sic].”

Hoover was fanatical about paperwork. Lawler remembered him, in some understatement, as “a man who was very attentive to details. He had a knack of writing his criticisms on memorandums, little short statements. One of them I will never forget. He said, ‘This memorandum burns me up but leaves me cold.’”

Once, Lawler made a relatively minor clerical error that resulted in a temporarily lost file. It was found seventy-five minutes later in a secretary’s outbox. This was cause for a four-page mea culpa from Lawler, using his best bureaucratese, to Assistant Director Tamm, explaining that after reviewing the incident in detail, the cause of the mix-up was human error. The file had simply been mislaid.

Hoover doled out praise to his agents sparingly and shrewdly. Loyal, trusted agents were rewarded with positions as Special Agents in Charge of a local field office. SACs were not known for their independence. Rather, they maintained a scrupulous adherence to the dictates from the Washington office. Through them flowed the many regulations, procedures, policies and rules promulgated from on high, most of which did

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64 Ibid.
65 Ibid.
66 Ibid.
67 Lawler Archive, “Memoranda,” 11 January 1939, Box 3 Folder 38.
little to help with actual investigations, and all of which seemed designed to drive field agents to distraction. Lawler, with his devotion to the Director and his administrative experience, was the perfect candidate for a SAC appointment to a small, unremarkable field office.

His tenure as SAC ran roughly from 1942 until his retirement in 1950. An internal review of the Richmond office noted that he inherited a field office in disarray. In short order, Agent Lawler was reported to be working hard, and making substantial progress on all fronts. His salary was increased to $5000 per annum. It wasn’t until after he accepted the position as SAC of the Richmond office, in FBI terms a steady gig, that he married.68

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68 Lawler Archives, Interview Transcript, Box 1 Folder 1, 3.
Richmond, Virginia, could hardly have been called a hotbed of Communist ferment in 1945. Previous experiments with Communism among labor groups in Virginia’s capital had ended in farce. In the mid-1930s, a New York Communist, Abe Tomkin, came to town and joined with activist Thomas Stone to agitate for rights for the unemployed. They made one fatal mistake. They organized a group composed mainly of Negroes, as sure a way to thwart their hopes for recognition and success in Virginia as can be conceived. They attempted marches through downtown, parades of unemployed black men demanding the right to work. Soon enough, the mayor unleashed police goon squads, and any demonstration became an exercise in intimidation and police brutality. Tomkin eventually gave up and left Virginia, convinced, as journalist and historian Virginius Dabney would have it, that “conservative Richmond was barren ground for Marxist propaganda.”

Lawler had a Hooveresque, strict constructionist interpretation of Communism. He viewed Communists with contempt, noting dogmatically, “Blind obedience to the Moscow dictates must be conceived in the mind of each party functionary and born with strict compliance, without benefit of even the slightest flirtation. The Communist Party, USA, appears to be a glutton for humiliation. STALIN boots them around, slams doors on them, and leaves them out on a limb with every zig and zag, but the party loves

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STALIN with a suffering submission of a drunkard’s dog and whimpers for more of the same embarrassment.”70 This would be the finest prose of Lawler’s career.

Lawler’s understanding of Communism was straight out of Hoover’s ideological playbook. Striking tobacco workers in Norfolk were not really disgruntled employees looking for higher wages and better working conditions. Together with food service workers, they comprised “a well-coordinated cell,” part of the “menace of Communism… a godless stateless, cold-hearted proposition. The sun never sets on Communism.”71 Lawler’s statement that “the ultimate objective of the Kremlin is to the rule the universe” would sound ridiculous if his actions as an agent didn’t provide ample confirmation of his beliefs.72 In his office at least, “we, the FBI, never went undercover. We paid informants. Our anti-Communist activities consisted of telephone taps, microphone surveillances” and other methods.73

In investigating Communists, the Bureau strayed into a minefield, and the agents and the Bureau’s leadership knew it. SACs in general, and Richmond’s John Lawler in particular, undertook illegal methods and tactics fully aware of what they were doing, and in fact attempted to cover-up whenever possible. In an organization such as the FBI, which was obsessed with rules and regulations, agents knew when their actions fell outside legal guidelines. A memo written by William Sullivan, head of intelligence operations, makes the case:

70 Lawler Archive, Box 1 Folder 10, “The Communist Party Line.”
71 FOIA Request 1047552-000, File 100-3-50, “Communist Party USA: District 26.”
72 FOIA Request 1047552-000, article from The Catholic Virginian, 11 January 1952.
73 Lawler Archives, Interview Transcript, Box 1 Folder 1, 7.
We do not obtain authorization for ‘black bag’ jobs from outside the Bureau. Such a technique involves trespass and is clearly illegal; therefore, it would be impossible to obtain any legal sanction for it. Despite this, ‘black bag’ jobs have been used because they represent an invaluable technique in combating subversive activities of a clandestine nature aimed directly at undermining and destroying our nation.74

Sullivan was the third most powerful man at the Bureau in 1966 when he wrote these words. It is doubtful that Lawler ever met Sullivan, who joined the Bureau during World War II while Lawler was head of the Richmond office. It is striking then the similarities between Sullivan’s memo and a statement Lawler made regarding investigations of Communists, “When you deal with intelligence work, it’s totally different from law enforcement…. You are dealing with people who will undermine our form of government. You’re dealing with people that you can’t use the same safeguards, constitutional safeguards, as you would use with a criminal activity…. You’ve got to fight fire with fire.”75 It is almost as if they are reading from the same script.

This is no accident. The respective beliefs of these two agents were part of the Bureau’s bedrock ideology. And this ideology formed the basis for the actions of SACs and field agents, who mouthed these same justifications for over sixty years of intelligence work, too often abandoning the very constitutional safeguards here mentioned.

Lawler, along with many of his fellow agents, were converts to the church of anti-Communism. His career as a federal agent – sworn as such to uphold the Constitution – only baptized him in the faith that, in upholding the law, the FBI was above the law. His life long he remained unrepentant. Hoover had trained his subaltern well; he was no

75 Lawler Archives, Interview Transcript, Box 1 Folder 1, 1. Italics mine.
doubt smiling from the fiery depths. But in this Lawler was also a victim of history. Over time, the FBI began to see few distinctions between members of labor unions, racial agitators, radicals, spies, and Communists. The thread that united them all was a common interest in subversion.
The FBI in War and Peace

“For war is thought and thought is information, and he who knows most strikes hardest.” From “The House on 92nd Street” – in which the FBI unravels a Nazi spy ring operating in Manhattan. The movie was made with direct FBI support.

Throughout the 1930s, Europe began its long, slow slide toward war. For many Americans, upset by economic devastation wrought by the Depression, it seemed like déjà vu all over again. Under the mantle of national security, the FBI, just as it did in the First World War, turbocharged its surveillance programs. The contours of the Bureau’s mission were familiar, including investigations of espionage, sabotage, internal security, dissemination of propaganda, and anti-war activism. In fact, the precedent for nearly everything the FBI did in the years leading up to, and the years during, World War II could be found in the time period encompassing that earlier war. In order to use the same tactics, which caused them so much grief in the 1910s and early 1920s, they had to make adjustments to the more unsavory aspects of their history. They accomplished this by recasting their role in the controversial events surrounding the First World War, and the gist of their mission in the early 1930s.

On the eve of the Second World War, a new generation of agents had to be indoctrinated about the historical mission of the Bureau. In 1940, Hoover drafted a memorandum to set out the official version of the events surrounding the Slacker Raids. During the First World War, Bureau agents “were pioneers in this work [arresting slackers].” The memorandum admits that in implementing the raids “some confusion and lack of judgment in handling individual cases resulted.” But agents in the 1940s need not have worried. The history was clear: “In every case it was found that the cause of the disturbance was due not to the lack of local patriotism, nor to the administrative methods
of the draft, but rather to the pernicious influence of radicals charged with the spirit of anarchy and to ignorance and misinformation as to the purpose of the draft and the aims of this nation in the war.”

This is a fascinating sleight of hand. The memo, it turns out, was not merely propaganda; it had a separate, more important function. The final pages of the document are an analysis of manpower requirements to enforce the Select Service Act. The methodology used is ingenious, if of questionable accuracy. Using Bureau statistics from World War I, the author figured the number of draft evaders as a percentage of the population. That percentage was then extrapolated into 1940, which gave an estimate of the number of draft evaders, or the number of investigations that would have to be carried out. With a little mathematical razzle-dazzle, voila: we discover that an agent closes “144.08 cases per year,” such that “it will require 1085 agents per year, over a five year period” to do these investigations. There would need to be hired “100 agent supervisors, 500 additional field clerical employees, and 200 clerical employees at the Seat of Government.” Part of this revisionist history was not only to steel the troops for the ideological battle ahead, but also to increase appropriations and manpower. The lever Hoover used to pry these funds from Congress was a welter of dazzling and dizzying statistics, thrown off with such aplomb that few questioned exactly what he was talking about, or where these numbers had come from.

By setting the earlier war in shadow, the Bureau was able to manipulate the debate, such that current policies seemed enlightened, guided by reason and the steady

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77 Ibid, 5-8.
hand of experienced professionals. In a press release attributed to Hoover, the American public learned, “World War I taught us a lesson…. U.S. war plants were defenseless against sabotage prior to our entry in that earlier war…. Good work [by the Bureau] eventually resulted [in preventing sabotage], but witch-hunts, dragnet raids and mob hysteria sometimes violated the very purpose of the war ‘to make the world safe for Democracy.’”

The Plant Survey program, for example, seemed reasonable enough in theory. The Bureau trained agents to study “the vulnerable points which may be the objects of attack by saboteurs and espionage agents. Recommendations are then made by the Bureau to the plant officials who can take steps to see that appropriate barriers will be thrown up to thwart the efforts of these destructive agents.”

According to the Bureau, this program had a historical dimension: “These same subversive forces which are so active now also attempted to wreck America twenty-two years ago [during the First World War].” Apparently, these subversives, whoever they may have been, had a long and spiteful memory to harbor a grudge for so many years. This begs the question – how had these subversives eluded the vigilant guardians of democracy for so many years? More importantly, in order to provide a suitable context for activities such as Plant Surveys, history needed to be revised yet again. This is how the FBI characterized the First World War years:

In 1924… self-appointed investigators, civic groups, law enforcement agencies, the armed forces… as well as the Bureau, conducted investigations of spies and saboteurs. The result was disastrous. Large espionage rings flourished unimpaired because of this hit-and-miss procedure. Explosions, destruction of property, and

78 Lawler Archive, Box 1 Tour Manual, Tab 12, 22 June 1944.
79 Lawler Archive, Box 5 Folder 105, “Internal Security,” 8 October 1940, 7.
80 Ibid., 4.
fires were the order of the day before America marshaled her forces. Our industries had no protection and were vulnerable to any attack. Fortunately as the War progressed this situation was remedied and the despoilers were thwarted in a majority of their plans.81

This time things would be different, the American public was told, because Bureau leader’s were “fortified with experience gained from the last World War,” which experience they will use to “stem the tide of subversion.”82 Here again, one can see how the jargon the Bureau used during the Red Scare stuck. It survived the years of the First World War and was later appropriated to describe their efforts to thwart the menace of international communism during the Second World War and beyond.

Agents were instructed to remember, “Propagandists are, in effect, as a general rule, espionage agents in this country performing such acts for Foreign Principals.”83 Did ‘propagandists’ include those who dissented from support for the war? The answer was the same in 1940 as it was in 1917, emphatically yes. And if you were an FBI agent sworn to protect the country from enemies foreign and domestic, certain shortcuts could be overlooked. Whatever reforms Hoover had instituted in the 1920s were by 1945 bankrupt; the FBI was a rogue agency.

In this, Hoover was fed raw meat by no less than FDR. He sicced the FBI on administration critics on a regular basis, if only in secret. Presidents had done this before. For FDR, it was more a continuation of an established political order than a precedent. Later, after the war, Presidents would use the Bureau to spy on suspected Communists, who, conveniently enough, were almost always critics of the administration in question.

81 Ibid., 5.
82 Ibid., 7.
83 Lawler Archive, Box 2 Folder 19, “Memorandum,” Lawler to E.A. Tamm, 13 May 1939.
In January 1942, FDR asked Hoover for surveillance in order to “clean up a number of… vile publications… [some were] pretty close to being seditious.” Many might be surprised at the sentiments FDR, bugaboo of conservatives even today, expressed in a memo to Attorney General Francis Biddle: “Please read this number of ‘The Hour’ [a conservative magazine]… I think very definitely that the FBI can run down things like this. Senators and members of the Congress are, of course, protected in a sense by the Constitution, but this must be strictly construed. There is absolutely no valid reason why any suspected subversive activities on their part should not be investigated by the Department of Justice or any other duly constituted agency.”

This is not exactly Lawler’s belief that you can’t use the same constitutional safeguards in intelligence work as you would in criminal investigations, but it is uncomfortably close. That seemingly innocuous phrase – ‘in a sense’ – was the thin edge of the wedge that the FBI used to pry open a loophole large enough to drive the next 25 years worth of illegal spying through. The agency had certainly not terminated its surveillance programs, even after Attorney General Harlan Fiske Stone’s explicit admonitions to do so in the early 1920s.

Although the spying itself was nothing new, FDR did set a precedent by bringing spying on American citizens in from the cold, by proclaiming executive authority to legitimize spying based on political ideology, to initiate investigations through the Department of Justice, and for wartime prerogatives that were constitutionally

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85 Ibid., 649-50. Italics mine.
questionable. In short, FDR gave Hoover a semblance of official cover for doing what he had always done.

Even the Bureau’s idea of espionage was tainted by ideology, a perverted sense of nationalism, and sometimes, racism. In the pre-war years, the FBI made efforts to know the enemy by studying foreign espionage efforts. While working in the Administrative Division, Lawler was tasked with researching and writing an outline on Japanese attempts to spy on America. Among his papers are handwritten notes, undated, in outline form about Japanese espionage. Here is Lawler’s assessment:

The Japanese conception of intelligence work, especially in espionage, is very different from our own. To the Japanese mind every activity in every foreign country merits investigation. This characteristic, undoubtedly, springs from the sense of inferiority which the Japanese feel towards foreigners. He knows that industry and invention mainly comes from the Western civilization and he is doing everything in his power to keep pace with the advancement made in those countries. These deep-seated feelings, coupled with Japanese energy, Japanese suspiciousness and oriental love of intrigue, makes every Japanese a potential, if not an actual spy.

There can be little doubt that such ideas, floating freely about the country at the time, formed the basis of FDR’s decision to place people of Japanese origin in internment camps.

Lawler’s handwritten notes on German espionage are another piece of dubious history propagated as fact. He wrote, “Remember this – that Hitler’s most effective weapon has been to divide and conquer – so those who spread criticism among Law En[forcement] Officer[s]… in connection with the Int[ernal] Sec[urity] Program are

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86 In some Bureau files, the Japanese are referred to as “Nips,” a not uncommon racial term at the time.
87 Lawler Archive, Box 2 Folder 19, “Japanese Intelligence Service,” 1.
acting the part of Axis agent[s].” The Bureau used such rhetoric to justify stifling domestic dissent against the war. This conflation of dissent with subversion was the underpinning for the agency’s intelligence work long after the war was over. A substitution of ‘Communism’ for ‘Hitler’ in the above quoted passage is a suitable metaphor for how the Bureau managed to transform the threat from wartime, i.e. the Axis Powers, into a postwar Red Scare.

Lawler’s work in the Administrative Division was not an independent effort. He was delineating Bureau policy promulgated from above, perhaps directly from Hoover himself. Lawler must have been trusted as espionage was one of the Bureau’s most critical responsibilities, and in such important missions nothing was left to chance.

The FBI’s espionage efforts ended with the war, but the accompanying tactics were too valuable to be discarded. A memo Lawler sent to Assistant Director Tamm reads like the playbook for investigations of Communists: “Espionage case[s] present to some extent a different type of problem than is ordinarily encountered in other cases investigated by the Bureau.” And all the familiar FBI tactics are laid out – mail covers, reading of telegrams, tapping of phones, scouring of bank and financial records, neighborhood investigations, and even submission to a polygraph test. And let us not forget to shroud these activities in utter secrecy, such that the G-2 (the Army’s intelligence branch), Naval Intelligence, the Department of Justice, and the Attorney General were kept in the dark until the investigation was a fait accompli.

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88 Lawler Archive, Box 2 Folder 19, “Custodial Detention.”
89 Lawler Archive, Box 2 Folder 18, “Memorandum for Mr. Tamm,” 12 May 1938.
For critics who maintained that these activities would be the same as those used in any criminal investigation, there was the inconvenient fact that the overwhelming majority of Communism cases involved citizens who had neither broken a law nor who were suspected of breaking the law; they were investigations driven by ideology. The methods and justifications the Bureau used in espionage investigations stuck. After the war these same tactics were expanded upon until they became standard operating procedure, particularly effective in Communism cases.

As the paper trail was the potential smoking gun, new filing procedures were instituted, specifically a ‘Do Not File’ designation for those memoranda that were too hot to touch.90 During the war, the Bureau perfected taps, bugs, microphones, mail opening programs, black bag jobs, and the use of proxies, such as paid informants and patriotic citizen informers like the Legionnaires. Of course, none of this was new; the same techniques had been used since the First World War, only now they were used with little discretion, and more broadly than ever before. They had become institutionalized. They were also kept under wraps to a large extent, unknown to Congress, attorneys general, presidents, and the public.

The FBI was not all grey and flannel. Occasionally, they were inspired in carrying out their illegal shenanigans, particularly regarding the euphemistically titled “‘confidential’ means and pretexts.”91 Lawler suggests, for example, that agents might pose as a “bug exterminator, fire marshal, air raid warden, utilities employee,” a door-to-door “radio survey” person, or a representative of a “silk stocking club.” There was also a

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91 Lawler Archive Box 2 Folder 19, “Recommendations on How to Proceed with Espionage Investigations,” 12 May 1938.
method by which a suspect was instructed to disrobe during a medical examination with a cooperative doctor. An agent waiting in the next room then searched the suspect’s clothing.92

More prosaically, there were mail covers, which came in several varieties. Often, a suspect’s trash was collected and sifted by agents for discarded mail, or other incriminating information. Mail was opened and photographed, resealed, and sent on its way. This was known as ‘chamfering,’ a technique taught to agents by British intelligence.93

Sometimes an agent dropped a newspaper in the mailbox after a suspect mailed a letter. This served to isolate the suspect’s letter from subsequent mail dropped into the box. Later, a postal official would grant access to the mailbox and the letter could easily be located. Lawler sent out a memo urging caution when agents employed the methods of copying and tracing. He cited one case where a suspect complained to postal authorities that someone was reading his mail. Apparently, whoever had traced over his letter had pressed too hard, leaving indentations that were clearly visible to the recipient.94

Alice Burke was the Chairperson of the Communist Party in Virginia after the war. According to Lawler, his agents “had surveillance going on on the phone; we had… a microphone inside of Alice’s apartment. We also had a janitor to give us all of the mail that she put in her trash basket. We put…a mail cover, in which the post office would put a trace on every letter that she got. Then from time to time we would follow her. And

92 Ibid.
94 Lawler Archive, Box 2 Folder 19, “Recommendations on How to Proceed with Espionage Investigations,” 12 May 1938.
from time to time we would break into her home. This is Lawler’s fond remembrance thirty-five years after the fact, so casually stated that one might be tempted to forget that most of these activities were illegal.

Did agents realize what they were doing was against the law? Lawler answered that question without meaning to. He fondly remembered his investigations of Alice Burke, saying, “I will never forget one young agent said, ‘What will we do if she comes in here now [after the agents had broken into Burke’s home]?’ I said, ‘We’ll cross that bridge when we get to it.’ And when we’d do something like that, we’d have other agents in the cars out following her all over town. But we had access to her apartment, keys to everything.” All this could be justified because Communists were trying to “undermine our form of government.” You just couldn’t use the same constitutional safeguards with Communists as you did with ordinary criminals, who, boringly enough, simply broke the law.

Another way to get around those constricting constitutional safeguards was simply to destroy evidence. For example, internal security documents relating to Alice Burke were given the numerical designation ‘100-801.’ As surveillance transcripts make painfully clear, most of the recorded conversations of Alice Burke are mind-numbingly boring. They have nothing to do with revolution, subversion, spying or anything of that ilk. But agency policy, and the dictates of intelligence gathering, demanded that transcripts be taken, that memoranda be written, studied, and retained.

After a time, it became too much for Lawler, who recommended a solution to the burgeoning size of File 100-801. In a hand written sidebar to one of his agents, he opined,

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95 Lawler Archive, Box 1 Folder 1, Interview Transcript, 8.
96 Ibid.
“Largest amt. of bulky exhibits in whole office is in this file – I know we can’t and shouldn’t destroy but can we selectively get rid of gen’l rubbish on this where couldn’t possibly be used in court. Would you review this and the 100 logs sometime. [sic]”

General rubbish indeed. The logs referred to were ledger books that recorded “the visits, arrivals, departures, and other required data at the plants [or ‘technical plants,’ a euphemism for a surveillance set-up].” That there were at least a hundred of them speaks to the enormous number of man-hours and the amount of resources the agency squandered in chasing ghosts.

This episode does not represent a nascent rebellious streak in Lawler. He was merely being over-scrupulous when hinting at the illegality of destroying evidence, for it was Hoover’s stated policy to do so. In June 1946, instructions went out to all stations, “No printed form should be used for the log but the log should be maintained on blank letter-size paper which contains no printing and no government watermark. Logs shall be prepared… in longhand…. These logs shall be retained for a period of one year after which time they shall be destroyed.”

Just how threatening was the Communist Party in Virginia? Were these types of activities necessary to prevent hordes of Bolsheviks from overrunning the state house, or city hall? During one of the frequent break-ins of Alice Burke’s apartment, agents obtained a list of every member of the Communist Party in Virginia, complete with names, addresses, telephone numbers, and sometimes employment information. In 1948,

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97 Lawler Archive, Box 4 Folder 64, “Communist Party Members,” 15 July 194? [unclear in original]. Italics mine.
99 Ibid.
there were 31 Communists on the rolls in the city of Richmond. In District No. 26, encompassing all of Virginia, there were 233 Communists on the rolls, and this at the party’s peak of popularity in the state.\footnote{Lawler Archive, Box 4, Folder 64, “Communist Party Members,” 10 March 1948, Memo for SAC from Andrew A. Armstrong, Jr.}

Confidential Informant R-169 “whose identity is known to the Bureau, on February 24, 1948, turned over to Special Agent Sterling B[unclear] trash discarded by Mrs. Alice Burke, Chairman, Communist Party USA, District 26.”\footnote{Ibid.} This informant lived in the same building as Burke at 11 North Linden Street. He was a long-term asset so the Bureau provided remuneration by paying his rent. He attended all the meetings of the Party in Virginia, and provided reports in the form of detailed transcripts of what was said, and who was saying it.

For a man of the right temperament, spying could be a lifelong profession. Lawler’s informant, R-161, was such a man. In addition to reporting on Communist meetings in Richmond and other parts of Virginia, he double-dipped, working also as a labor spy. While working at the Mill Creek Coal and Coke Company, his professional curiosity was piqued by another man, Frank C. Thompson. R-161 became suspicious of Thompson’s behavior when he (Thompson) “exposed a foreigner who was trying to organize the IWO. He thought… I was a Control man for the company…. He confided he was working for the Pinkerton Detective Agency.”\footnote{Ibid.} It turned out that Thompson was “in criminal cases and not in labor espionage when he was working for Pinkerton.” Thompson showed R-161 a paper that listed his credentials from World War I as

\footnote{Lawler Archive, Box 4 Folder 63A, “Communist Activities,” File # 66-1228A.}
“Director of Military Intelligence.” R-161, impressed by how long Thompson had been in the intelligence game, asked his Bureau handler for permission to recruit the older spy.103

That those who inform to the FBI might have had a personal agenda in so doing was one obvious downfall of the arrangement: “We have found that in numerous instances complaints were made because of political bias, religious or other prejudices.”104 Another was that money for information was powerful incentive for job security.105 Aside from these specific issues, there was the general unease resulting from citizens spying and informing on one another.

Every FBI agent worth his salt had sources. It’s how business got done. While SAC in Richmond, Lawler developed contacts with businessmen, lawyers, accountants, bank managers, hotel clerks, bellboys, taxi drivers, gamblers, madams, State officials, city officials, regional directors of the CIO and other labor organizations – the list goes on and on. Asking questions about illegal activities is on its face a legitimate police function, and good investigative management. But documents in the Lawler archive reveal that things were not quite what they seemed. Lawler’s sources sometimes became spies.

What happens when a criminal defense attorney pimps for the FBI? Or when a City Hall Tax Clerk provides the Bureau with tax returns on the sly, without benefit of a warrant? Or when the Business Manager of the Chesapeake and Potomac Telephone Company provides phone records as a favor? Or when the Superintendent of Western Union Telegraph Company passes along private, privileged correspondence on his own

103 Ibid.
104 Lawler Archive, Box 2 Folder 18, Untitled Memo, 25 July 1938, 1.
initiative? Was Henry Schwarzschild, partner in Schwarzschild Jewelers, informing on Jewish criminal activities to do away with competition, or from an abundance of patriotism? Were gamblers sacrificing others to save themselves?

Did the FBI know that some sources were acting illegally in providing information? Lawler did. One memo he authored has all the attributes of a smoking gun:

The Confidential Sources of Information, which were separated from Confidential Informants at the instructions of the Bureau, include telephone company contacts, Western Union contacts and other places of business such as banks, public health departments and Unemployment Compensation Commissions, which are prohibited either by law from furnishing information or make it impractical to furnish such information generally due to the possibility of suits.106

At least these informants were flesh and blood. Confidential Informant R-155 was a microphone planted during an illegal break-in at Burke’s home.107 Confidential Informant R-182 was a wiretap, called ‘Technical Surveillance’ to distinguish it from other forms.108 This may sound silly on its face, but when the Bureau passed along cases for prosecution, they used these designations without revealing who, or in this case what, the sources were. In this way, they were able to keep the programs secret, away from prying eyes of attorneys general, and to insulate themselves from public criticism. At the same time, they could claim they had the Communist threat well in hand.

For agents, and SACs specifically, the subterfuge surrounding sources and methods led to confusion, like a lie told once that needs to be remembered ever after. At times, agents had to futz with the details of informant testimony in order to protect the illegality of its provenance, for example a microphone, or a bug. In a memorandum to the

106 Lawler Archive, Crime Survey #7, 10. Italics mine.
107 Lawler Archive, Box 3 Folder 38, “Internal Memoranda #100-801,” 11 February 1949.
108 Ibid.
Director, Lawler defensively suggests that perhaps, “accuracy of statements could have been sacrificed for a better protection of the informant… if these statements had been made by a live informant.” This was a big problem for agents, and put them between the devil and the deep blue sea. They had to guard against the “possibility of anyone, reviewing the report, coming to the conclusion that they were technical, microphone or live informants.”

During the years that Burke lived in Apartment 2, 11 North Linden Street, the FBI paid at least one informant to live in the same building. Lawler, via the FBI, paid rent each month to the building’s owner. He used this influence to buy the building, which he later sold to Virginia Commonwealth University in the 1970s. It is not known how prevalent was this sort of graft, but this example clearly demonstrates how starting down the path of shadowy illegal activities can lead to a slippery slope. The justifications would begin to pile up until agents could rationalize enriching themselves through the prerogatives of their office.

This parochial perspective, when broadened to encompass the Bureau’s Communist activities nationwide, reveals the staggering resources and manpower employed - the dimensions of this folly are hard to reconcile. Consider too that the Bureau was only one arm, albeit the largest, of a national intelligence effort against American citizens who were Communists, or who were thought to be sympathetic to the cause.

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109 FOIA Request 1047552-000, “Office Memorandum, SAC Richmond to Director, 5 July 1949.”
110 Lawler Archive, Box 1 Folder 1, Interview Transcript, 7.
The Bureau was convinced that Communism was going to use labor groups as a Trojan horse in order to gain a foothold in this country. Hoover’s thoughts became Bureau policy, “I want to point out again that control of labor organizations is the base on which the Communist program in this country has been formulated. The degree of Communist infiltration and domination of the organized labor movement in the United States will determine the success of Communist Political Association activities during the remainder of the war and in the postwar period.”\textsuperscript{111}

In 1939, there were 713 FBI agents; by 1945 the number had increased more than 600 percent to 4370 agents.\textsuperscript{112} After the war, these agents were for the most part without a mission. Not to fear, for a new mission needed only an old foe; the Bureau’s fallback nemesis was labor. This time, though, there was a new wrinkle - race. The Director’s instructions were clear, reminding agents to remain vigilant: “The Bureau is still interested in receiving information with respect to labor disturbances which involve… actual or impending strikes or other labor disturbances which appear to be Communist inspired or promoted… [and] actual or impending strikes or other labor disturbances which involve racial agitations.”\textsuperscript{113}

As this memorandum suggests, strikes inspired by Communists and disturbances by Negroes were distinct events, and were considered separate activities perpetrated by separate groups. Soon enough though they would become, in the peculiar conspiratorial logic of the FBI, conflated into one threat. Communists did not help their cause by

\textsuperscript{111} Lawler Archive, “Bureau Bulletin No. 44, 12 July 1945,” 1.
\textsuperscript{113} Lawler Archive, Box 1 Folder 9, “Bureau Bulletin No. 1, 2 January 1946, 1.
advocating for racial equality. Alice Burke was explicit, in that the party’s “greatest contribution had been the fight for complete equality for the Negro people.”\textsuperscript{114}

To be sure, being a Communist in post-war America was a peculiar sort of optimism. In fact, the broader liberal movements, such as the fight for racial equality and voting rights, union organization, and other progressive social ideas, were nationwide having to beat against the gates of entrenched conservatism. Nowhere was this truer than in the Southern states. John Egerton, elegantly as ever, summed up, “Idealism certainly pointed the South toward a democratic future – but realism and tradition stood in the way.”\textsuperscript{115} Burke’s belief in the Party’s contribution toward racial equality in Virginia would certainly be considered idealistic, or looking through the wrong end of a telescope.

Even though one social scientist maintained that progressive groups “softened up the South,” the American Left was on the ropes.\textsuperscript{116} The war had greatly expanded the federal government’s influence, as it was able to provide crucial goods and services that localities and states could not. One of the great results of the New Deal was a “breaking down of those sectional barriers… [that] compelled all Americans to think in national rather than regional terms.”\textsuperscript{117} Progressives had plenty of causes to raise the standard for, but there was less unity on the left among the forces for change, than there was among the conservative orthodoxy.

In the influential magazine Life, Arthur Schlesinger introduced the formulation, which seems passing strange today, that Communists were the greatest threat to the

\textsuperscript{114} Lawler Archive, Box 1 Folder 9, Document RH-1634.
\textsuperscript{117} Egerton, \textit{Speak Now Against the Day}, 351.
Richard Powers thought much the same thing, noting, “The old unity of the left that had been destroyed in the twenties, but had reemerged during the thirties, had been shattered again by the Cold War…. The Cold War… split the left between supporters and critics of a foreign policy of containing the spread of communism.”

The changes wrought by the war threatened conservatives, and they weren’t going down without a fight. Truman caved to pressure from the right and passed an executive order, which required all federal employees to certify that they were loyal to America, and that they weren’t Communists. A similar proviso was part of the Taft-Hartley Act, which stuck a knife into the heart of organized labor, forcing restrictions on a union’s power and its latitude in worker actions, and requiring that union members renounce any affiliation with the Communist Party. In effect, the federal government was flexing its anti-Red muscles.

It is one of history’s ironies that at the time of greatest anti-Communist fervor in this country the party itself was dysfunctional. Further, a host of the most important things they were fighting for, “a minimum wage, unemployment insurance, a five-day workweek, reform of child labor, old-age pensions – were destined to become essential elements of American democracy.” But the bait and switch continued to be Communism and race. It took no great effort of imagination to see how the fight for social change could be construed as a Communist pas de deux. In Egerton’s memorable

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phrase, “The segregationist Southern Democrats proceeded to dine freely on red herrings for the next generation.”

The Bureau’s racial policies in 1945 were predicated on beliefs in line with those of many Virginians at the time. Racial agitation was closely monitored, especially in the southern states. During the war, Lawler sent a memo to headquarters, warning, “That a few Negroes have pro-Japanese tendencies…. Also indications have been received reflecting a change in attitude of the Negroes in this area… there is said to be a rumor being spread among the Negroes that they are an oppressed race. Investigation… is being conducted to identify the sources of pro-Japanese sentiment and source of rumors thereof.”

That blacks in Richmond, Virginia, in 1945 would need to start a rumor of their own oppression is frankly absurd. That it was a rumor the Bureau took seriously enough to investigate is instructive. It is no surprise that the informant for this shocking piece of news was himself black. With wisdom derived from hard experience, he advised his handler, “The Negro situation in this area is [not] anything to worry about.”

Perhaps the ruckus could be explained in part by the fact that affluent whites were losing their servants to the draft. A whisper campaign propagated rumors that “Eleanor Clubs” with pro-Axis sympathies were popping up in the Negro community. And Alice Burke had the temerity to condemn “the laws prevalent in the State of Virginia regarding

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121 Egerton, *Speak Now Against the Day*, 460.
123 Ibid., 344.
segregation. The Party in the State has also called for social equality for Negroes and white people. One of its other chief aims is to abolish the poll tax."\textsuperscript{124}

This was tantamount to blasphemy. The Richmond office concluded that though there was no organized movement, “In all localities of the State…there have been reports of un-Americanism on the part of individual Negroes.”\textsuperscript{125} These incidents illustrate how rumor and information passed along by biased informants with a personal axe to grind could lead agents down the garden path.

The quixotic adventure to link the struggle for civil rights with Communism led to some bizarre consequences. One report stated, “Information has recently been received indicating that a Communist Party member while conducting a surveillance on an individual who was under suspicion was armed with a revolver. Other information has been received recently indicating that the Communist Party in one area was obtaining souvenir guns for distribution among negroes.”\textsuperscript{126} Aside from the unclear syntax and confusing lack of punctuation (who had the gun – the person doing the surveillance, or the person under surveillance?), one wonders why the revolutionary Party that posed the greatest threat to the institutions of American democracy would be distributing souvenir guns in the first place. Could they not afford to buy and distribute real guns? If not, whither the threat?

The reliability of informers was a constant headache for the Bureau. When national labor union officials and the public got wind of investigations into labor disputes, they raised a holy stink. But, in typical fashion, it was not the Bureau’s fault.

\textsuperscript{124} Ibid., 345.
\textsuperscript{125} Ibid., 347.
\textsuperscript{126} Lawler Archive, Box 1 Folder 9, “Bureau Bulletin No. 27,” 15 May 1946, 6.
They claimed they were misunderstood, “The purposes and subject matters of the
[investigations of Bureau activities] have been falsified by inference and by complete
untruth; and the FBI and the Department of Justice have thereby been placed in an
unfavorable position.”

This was cold comfort to field agents, who complained bitterly about investigations that were time-consuming, difficult, and politically sensitive, but which bore no fruit.

Many studies have focused on Hoover’s ideological obsession with Communism
and Communists. But when examined on a local level, when dissecting the nuts and bolts
of investigations of American citizens who called themselves Communists, or were so-called by the Bureau, the effort seems largely a waste of time, money, and manpower.

The bloated bureaucracy and the greatly expanded roster of field agents that were both a legacy of the Second World War needed to be justified somehow. Few would cast a gimlet eye upon a routine investigation of Alice Burke for being head of the Communist Party in Virginia, but the breadth, the depth, and the scope of the investigation, and the illegal methods and tactics employed by agents was overkill. It far exceeded in damage, and in plain futility, what it gained in valuable information. Field agents became so compromised by the creeping line of end-justifies-the-means, that they became ineffective investigators.

Short cuts taken in intelligence investigations would become standard operating procedure; later they became last year’s model and even more lines between legality and illegality were crossed. The strongest hand the agency had was always in criminal investigations, in which it could bring to bear its vast resources. When sticking to good

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128 Memoirs by former agents are replete with this refrain.
old-fashioned police work, the Bureau could be effective and efficient. Intelligence work blunted this efficiency and subsequently their effectiveness.

A burglary in Richmond in February 1949, which became the Schwarzschild Brothers Jewel Robbery Case, reveals what the FBI could accomplish when it stuck to its stated mission of fighting crime. The case is worth examining in some detail. On February 11, 1949, Robert Pinkerman visited Schwarzschild Brothers Jewelry Store at 111 E. Broad Street. He was looking for an engagement ring. He suddenly felt ill and asked to use the bathroom, which was located on the second floor. On his way to the bathroom, he surreptitiously unlocked a window in a nearby hallway that gave onto the roof of the building next door. He then returned to the showroom, told the clerk he’d return later with his fiancé, and left.

On the same day, in the building two doors down, a man appeared in a dentist’s office asking where a different doctor’s office was located. The dentist’s office gave onto the same rooftop as that of the window opened by Pinkerman. The next day two men bought an oxy-acetylene rig from a local welding supply store, saying they were opening a jewelry repair business.

Two days later, on Monday morning, S. M. and Henry Schwarzschild arrived at their store on Broad Street to find that they had been burgled – more than $220,000 in jewelry had been stolen. The safe, equipped with burglar-proof locks and a tear gas system that would activate if the safe were blown, had been skillfully cut open with an oxy-acetylene torch. Somehow, the burglars knew exactly where to cut to avoid setting off the gas. The burglars had made a calculation, which turned out to be a mistake, to leave the tanks behind.
The thieves had broken into the dentist’s office, crossed the adjoining roof, and crawled through the window unlocked by Pinkerman. They then used rope to lower their equipment into a second floor hallway. The rope was left dangling in place, perhaps to tantalize the police, perhaps as a result of their haste to flee the scene.

The Richmond Police and the FBI cooperated in investigating the crime, with the feds leading the way. The oxy-acetylene tanks were traced and descriptions were taken of two men. A blue tarpaulin used to enclose the safe so that passersby didn’t see the light from the cutting torch was traced to a Sears Roebuck store in Lexington, Kentucky. The Bureau scoured their files for known jewel thieves; statements were taken; alibis were checked. A snitch in Kansas City informed on Robert Pinkerman and William Henry Flowers, aka Howard Baker, as being involved in the Schwarzschild job. Flowers was found in Missouri and arrested on an outstanding federal warrant for an unrelated incident. In the trunk of his car was a Pennsylvania license plate. It had been issued to Howard Baker one month before the robbery.

Inexplicably, Flowers asked to visit his safe deposit box, which he did in the company of an FBI agent and a US Marshall. There were eleven pieces of jewelry in the box. On his finger at the time of his arrest was a one-and-a-half carat diamond. A diamond expert certified that these items were stolen from Schwarzschild in Richmond.

Meanwhile, the feds checked over 20,000 parking tickets for garages in Richmond, something only the Bureau had the resources to accomplish in a timely manner. A ticket issued for a car registered to Henry William Bostelmann raised a flag. “Monte” Bostelmann had a long criminal history, and had served time for burglary, hold-ups, bank robbery, and safe cracking. Bostelmann had served time with Flowers in
Colorado. At that Colorado penitentiary was a guard named Doc Jamison. This was the name used by Bostelmann when he bought the oxy-acetylene rig in Richmond. While incarcerated in Colorado, Bostelmann occasionally did favors for the prison warden, opening safes for local businessmen when they had lost or forgotten the combination. He never failed to open any safe he was asked to crack.

An enormous number of hotel registration records for Richmond were searched, and several hundred possibilities set aside for consideration. Bureau handwriting experts examined these cards and three positive matches were found – Robert Pinkerman, Henry William Bostelmann, and William Henry Flowers.

While all this was happening, a burglar was caught red-handed in a North Carolina department store. The FBI examined his burglar’s tools, one of which was a custom-made jimmy bar of unusual design. The burglar was a known associate of both Pinkerman and Flowers. Bureau lab technicians followed a hunch and discovered that tool marks found at the scene at Schwarzschild’s in Richmond matched the custom jimmy bar. When confronted with this evidence, the North Carolina burglar admitted that he borrowed the tools from Flowers, a sort of criminal tool swap.

The preponderance of this forensic evidence yielded convictions of each of the three men – Flowers got twenty years, Pinkerman eight years, and Bostelmann four years.¹²⁹ This case clearly shows the Bureau at its best, investigating, following leads, using the resources it possessed to best effect.

Lawler was intimately involved in the investigation. He oversaw the Bureau’s effort and was the liaison with the local police. For this effort, he received a letter of

commendation from Hoover, and he was “recommended… for a meritorious [pay] increase.”

There is much left out of this account to be sure, but the point is clear – the FBI was good at crime solving. They knew how to run investigations, and prepare evidence for trial. Intelligence operations threw this expertise over the fence in favor of spying and extra- or quasi-legal shenanigans. The question has to be asked – at what cost?

\[130\] FOIA Request 1047552-000, Personnel File, John Edward Lawler.
In Richmond, as in most cities, organized crime and corruption were conjoined; they fed each other. The Richmond office knew a lot about these activities and reported on them to FBI headquarters in yearly crime surveys. The Lawler Archive contains reports for the years 1944 through 1950.

The Richmond office got religion about organized crime in 1945. Lawler noted, "Mark Hannah Boyd… is characterized as the leader of one of the most notorious and profitable underworld gangs who operate in Richmond…. The activities of this gang, while known to all law enforcement agencies in this area, operate in defiance of them, due to their shrewdness to evade the tentacles of the law, as well as having their activities covered by a limited amount of protection."  

The gang’s main activities included high jacking liquor shipments, bootlegging, black market dealings, and gambling, and it had connections with organizations up and down the Atlantic seaboard from New York to North Carolina.

Like most successful organizations, the Boyd gang was efficient, organized, and diverse. Moonshine liquor was trucked in from Baltimore to a farm in Henrico County owned by a gang member. The hooch was then colored, bottled, and labeled for distribution in the city. Other gang members ‘owned’ gas stations, bought for them by Boyd, which served as distribution centers for liquor, stolen property, and pornography.

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131 Lawler Archive, Crime Survey #2, 1.
132 Ibid.
133 Lawler Archive, Crime Survey #2, 2.
Corrupt police officers provided an umbrella of protection for these activities. The Complaint Clerk of the Richmond Police Department, through whom all department communications were cleared, was a Boyd henchman who provided tip-offs about police activities when necessary. Another officer was the gang’s bookkeeper. He provided job security for himself by shaking down madams for protection money. Coincidentally, this man had a long uninterrupted civil service career - in 1961 he was Richmond City Treasurer.\textsuperscript{134} The Bureau had little difficulty convincing Ann Christian, “A then notorious madam of a house of prostitution in Richmond,” to rat out the dirty cop, “Officer Burroughs.”\textsuperscript{135} Note the moralistic and sexist tone, wherein a cooperative madam is “notorious,” while a thoroughly corrupt policeman is unburdened by any disparaging adjectives.

During the war, the Boyd gang also had a hand in the black market. The Director of the Bureau of Weights and Measures, who served as the coordinator between the city and the Rationing Board, was caught along with two Boyd gang associates operating a black market in gasoline rationing coupons.\textsuperscript{136} Boyd’s lawyer, who attempted unsuccessfully to bribe the presiding judge’s clerk, defended the three men at trial.\textsuperscript{137}

The gang’s reach extended into the leadership of the Richmond Police Department. When four police officers were caught “casing, fingering, and guarding” stores so that criminals could blow the safes and rob them, Chief E.H. Organ took his case to the mayor.\textsuperscript{138} The FBI concluded that a Boyd lieutenant, Roland Wright, had

\textsuperscript{134} Lawler Archive, Box 4 Folder 76.
\textsuperscript{135} Lawler Archive, Crime Survey #2, 3.
\textsuperscript{136} Richmond Times-Dispatch, 3 October 1944, 1, 6.
\textsuperscript{137} Lawler Archive, Crime Survey #5, 1-2.
\textsuperscript{138} Lawler Archive, Crime Survey #2, 2-3.
organized this scheme. Chief Organ tried to persuade the mayor not to fire the officers, as Wright was so dangerous he could have anyone killed at any time. The claim that the Richmond Police could not provide for the safety of their own seems barely credible. When another officer was caught stealing while on duty, Wright posted his bail. At trial, Wright acted as a character witness for the officer, claiming he “had known [Officer] Browning for several years and had never before heard anything in derogation of his character.”

Roland Wright had the right kind of friends – crime kingpins and police officers. But he was also an intelligent and pragmatic man – despite having a long criminal record, he once ran for Justice of the Peace. Overall, this illustrates the gang’s sophisticated understanding of the legal and political system of local governance, and the structures of power and protection in Richmond.

Boyd worked his system from the street upward, bribing policemen, local city officials, and others he could exploit for protection and for monetary gain. Their operations were so wide ranging that they brushed up against the activities of another gang that operated in Richmond at the time, the Byrd Organization, the eponymous political machine run by Senator Harry Byrd.

The Byrd Machine completely dominated Virginia’s political scene for nearly forty years. The outlines of the Organization began in the 1920s after Byrd was elected governor. His support, and the source for much of the power he wielded as governor and Democratic party leader, came mainly from the rural Southside. This conservative bloc

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139 Richmond Times-Dispatch, 18 November 1941, 9.
140 Ibid.
141 Lawler Archive, Crime Survey #2, 2.
joined with Byrd to support the dread poll tax, “An electoral mechanism that obstructed the mobilization of poor voters who would likely oppose [the] Organization.”142 It was a very successful tactic. In her examination of race and democracy in the South, Patricia Sullivan conceded that only “11 percent of eligible voters were registered.”143

Historians have spilled some ink on Byrd and his machine. Some are inclined to be more generous than others about his political leadership during the transitional post-war years. Byrd is sometimes put forth as a benign representative of Virginia’s paternalistic political establishment. One commentator noted, “He was never a dictator and did not gain great personal wealth at the public's expense. That's not the Virginia way. This is a state where political and economic conflicts were traditionally resolved in a genteel manner.”144

Political scientist Frank Atkinson similarly played down the more unseemly parts of the Byrd Organization. His Harry Byrd was an indefatigable Virginia hero, “Staunchly conservative in his political views, steadfast in his devotion to Virginia, honest, seemingly tireless, always engaging and personable, Harry Byrd was respected and revered by Virginians like no other.”145

Virginius Dabney, ever the paternalist, came at the problem of the Organization’s monkeyshines somewhat obliquely: “The refusal of the Democratic organization over a period of generations to do anything to stop these absent-voter and poll-tax frauds is

143 Patricia Sullivan, *Days of Hope*, 204.
144 http://www.virginiaplaces.org/government/byrdorg.html
something which has never been satisfactorily explained. Political morality in Virginia is of so high an order in other respects that this long-continued lapse is the more disturbing. The crookedness was confined almost entirely to one section of the state, but much more determined efforts should have been made to stop it.\textsuperscript{146}

Political scientist V.O. Key provided a more clear-eyed picture of Byrd and his machine. He argued, “Of all the American states, Virginia can lay claim to the most thorough control by an oligarchy. Political power has been closely held by a small group of leaders who, themselves and their predecessors, have subverted democratic institutions and deprived most Virginians of a voice in their government… It is a political museum piece.”\textsuperscript{147}

How did this oligarchy work? It was common knowledge, for example, that the Director of Public Safety (who was essentially the Police Commissioner), the Chief of Police, and many of the tangential positions integral to the administration of justice in the city (such as court clerks, sheriffs, bailiffs, etc.) were political appointees who owed their positions to the Byrd Machine.\textsuperscript{148} By this list, it is evident that people in positions of power, who were beholden to Byrd and his organization, were the same people Boyd exploited to maintain his criminal enterprise.

When persuasion was not enough to achieve their objectives, Democrats resorted to more forthright tactics. In an election in Dickerson County in 1943, Republicans complained about serious voting irregularities. Judge Joseph L. Cantwell led a grand jury

\textsuperscript{146} Virginius Dabney, \textit{Virginia: the New Dominion} (Charlottesville: University of Virginia Press, 1983), 516.
\textsuperscript{148} Lawler Archive, Crime Survey #1, 3.
probe of Republican allegations of fraud, ballot tampering, and vote theft by local Democratic elections officials. He concluded that these local officials (Democrats) acted “as though… with the purpose of seeing that no possible election vice be left undone.”

Even if the FBI did not maintain as much, Judge Cantwell certainly considered political corruption to be ‘vice.’

The FBI could not help but notice that the Byrd Organization had Virginia in political lock down. The surveys mention doctored vote counts, fraud by judges, stolen polling books, corrupt election officials in county offices – in short, the system was examined and found to be grossly deficient in fairness and accountability from stem to stern. There is no record of an FBI investigation into these allegations.

Lawler and his agents studied the Byrd machine in some detail. They outlined the methods the organization used to maintain its hold on power:

The State Compensation Board is composed of three state officials appointed by the Governor. Those officials are certain to be members of the ‘The Organization’ when the Governor belongs to that faith, as he nearly always does, and they fix the salaries and expense allowances for the important local officers throughout the state. Every Sheriff, Commissioner of Revenue, Commonwealth Attorney, Treasurer and City Sergeant is dependent upon the Board at Richmond for their scale of pay, which can be raised or lowered by the Board within specified brackets. The Board also had the power to fix the ‘expenses’ of these officials, a rather flexible term. It not only controls the Clerk’s expenses but the salaries of his staff.

The surveys provide clear evidence that the FBI knew about the corruption in local politics. They reported, “Captain L.C. Haake of the Richmond Police Department was recently promoted to that position as a result of being able to ‘throw’ the election in

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149 Lawler Archive, Crime Survey #5, 8.
150 Lawler Archive, Crime Survey #3, 4.
Richmond to candidate William C. Herbert, who is the present Mayor of the City of Richmond.”

Sometimes, the interests of both gangs collided, even if they didn’t realize it. Moffett Wilbourn, Mark Boyd’s right hand man, was the nephew of then Lieutenant Governor (later Governor) William Tuck. From time to time, Tuck interceded on behalf of his nephew whenever Wilbourn found himself in legal straits. In 1946, Governor Tuck tried to strong-arm early parole for his wayward nephew. He sent Wilbourn’s son to see Russell Devine, a 23-year veteran of the Virginia State Board of Parole. Devine turned down the request for early parole as it was clearly a case of influence and not standard parole board procedure. Subsequently, Devine was called to the carpet and summarily fired by Tuck. It should come as no surprise that parole board members were political appointees and as such were beholden to the party in power at the time.

The Byrd Machine had groomed Tuck for the governor’s office, a fact known to the FBI. One informant relayed that Tuck had confided that when he (Tuck) became governor, “Slot machines would be able to operate in the State of Virginia without any interference from the Virginia State Police.”

Most Richmonders would scarcely have recognized the portrait of their hometown as painted by the FBI in their Crime Surveys. The depth and breadth of the criminal enterprises are surprising even today. But historians of Virginia politics would no doubt have to revise their assessments of Byrd and his machine if they had been privy to information provided by the FBI’s sources.

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151 Lawler Archive, Crime Survey #2, 11.
152 Lawler Archive, Crime Survey #5, 2-3, 9.
153 Lawler Archive, Crime Survey #4, 33.
The similarities between how the Boyd Gang and the Byrd Machine maintained their respective influence masks a larger framework for debate – is there some moral equivalency, or distinction, between subverting democracy in a macro-societal way, through manipulation of the political process, and undermining societal norms and standards through common-as-muck criminal enterprises? Is one worse than the other? The FBI seems to have answered this question, even if they didn’t ostensibly ask it.

When presented without context, the following observation would apply equally to both organizations: “The activities of this gang, while known to all law enforcement agencies in this area, operate in defiance of them, due to their shrewdness to evade the tentacles of the law, as well as having their activities covered by a limited amount of protection.”154 The FBI did little about violations perpetrated by the Byrd Organization, even though federal statutes dealing with election fraud were explicit and numerous. The Bureau “Manual of Instruction” expends twenty-one pages delineating the methods and procedures for election fraud investigations.155

Richmond was run by a coterie of rich, powerful, white men who were careful to exercise power and influence in a controlled manner. V.O. Key’s concept of Virginia’s political scene as a “museum of democracy” is perspicacious for there was democracy on display for all to see only one shouldn’t look too closely. The crime surveys are detailed and specific about laws being broken. Obviously the Byrd Machine was afforded some kind of protection, for its grip on power ended only with Harry Byrd’s retirement in 1965, and not as a result of federal indictments. The Richmond office of the FBI did not

154 Lawler Archive, Crime Survey #2, 1.
155 Lawler Archive, Box 5 Folder 109, “FBI Notebooks – Manual of Instruction.”
proffer federal charges of any kind against Mark Boyd. Through its inaction, the FBI acted to preserve the status quo in Richmond.

Contrast this with Communism investigations, in which mere suspicion was enough to trigger an investigation. The time and resources spent in investigating Alice Burke, who had broken no laws, dwarfed those used to combat corruption. And yet, as an old man looking back on his career, what Lawler remembered most fondly, what he was most proud of was combating agents of Communism, not crime bosses. In his reverie, he didn’t even bother to conceal the illegal methods he and his agents used.

Bureau historian John Fox is understandably defensive about the Bureau’s record. He maintained, “A lot of what has been written has been [by] those sympathetic to Communists of the day. I think the story is different than that.” He asserted that the FBI was not an ideological organization; that investigations of Communists were legitimate because they were matters of national security. This argument is baffling. It seems aimed more at a contemporary audience, and in response to issues of national security that pertain to today’s world.

Whatever the case may be, the documentary evidence in the Lawler archive refutes this claim. It reveals an agency fully cognizant of its institutional power and prestige; an agency willing to use that power to gather information for unclear objectives; an agency very adept at gathering intelligence, but unwilling or unable to provide analysis of that intelligence data. Intelligence operations require power and secrecy, neither of which requires an understanding of the larger picture that data represents, or fits into. Analysis requires some contextual understanding beyond mere gathering: the

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156 Telephone interview, 25 April 2006.
Bureau excelled at the latter and virtually ignored the former. The battles it chose to fight were less about enforcement of the law than about upholding a prevailing myth the agency believed about itself and did much to propagate for public consumption. The ramifications of this failure would resound down through the subsequent decades and indeed are evident today.
Conclusion

The FBI is iconic. It’s a brand - t-shirts, caps and sweatshirts with the famous acronym are big sellers. Every season brings a new Hollywood movie featuring the Bureau, sometimes as savior, sometimes as devil. It is considered an elite law enforcement agency, probably the most well known such agency in the world. And yet, the Bureau has been involved in events that strain credulity – how could they have missed 911, after the 1993 World Trade Center bombings, with all the warnings? The FBI’s failure to prevent the attacks of September 11, 2001 was the final result of a process that had begun many decades ago. The more one learns about the history of the Bureau, the more familiar these failings sound.

It began life as an investigative agency, and has struggled ever since to convince itself and the American public that that is its primary mission. But that simply isn’t the whole story. The FBI was almost from the beginning an intelligence agency, which sounds benign until you scratch at it a little. The anti-immigrant ferment in American society in the pre-World War I era was reflected in investigations the fledgling agency undertook in its earliest years. Suddenly, radicals, or ‘subversives,’ a favorite term of Bureau leadership, were suspect because they too loudly demanded their rights, too clearly exposed the corruption and inequities inherent in the Progressive era and throughout the early years of the twentieth century. American society had not quite caught up to the ideals the founding fathers expressed in the Constitution, a radical, some might say subversive, document in itself.
For nearly half a century, a paranoid, dogmatic, reactionary, vengeful ideologue ran the agency like a fiefdom. His power went virtually unchecked. Presidents used him and Bureau resources for their own ends, which were too often political in nature. One crucial lesson to learn from J. Edgar Hoover’s tenure is that the power of the Director must be limited. Additionally, Congress must provide scrupulous oversight, which, for far too many years, was not done. Hoover deserves whatever slings and arrows of opprobrium that have come his way, but no man, no matter how great or powerful, can fend off a mutiny for fifty years. Field agents and SACs were complicit in subverting the rule of law, the documentary evidence is most clear on this point. Their role in the up and down history of the agency they served, and helped to define, has received too little attention from historians.

John Edward Lawler might serve as an historical lesson in this regard. His relatively successful career is in many ways illustrative of how sincere, intelligent, morally upstanding members of the law enforcement community could, in hewing to the company line, cross the one between upholding the law, and breaking it. These agents were held in thrall to the mythos of the vaunted FBI, something Bureau leadership did much to engender. Agents too frequently compromised their oath to uphold the Constitution to ideology, political expediency, or to ensure job security.

For historians who would study the FBI, one of the most intriguing and under-examined themes is memory, the Agency’s institutional memory. In its early history, the Bureau, for many complicated and exigent reasons, had to propagate a myth about itself in order to expand, in order to reassure the public they were trustworthy and were acting according to the dictates of the law. Over its nearly 100-year history, it has become adept
at explaining that it is an investigative agency interested only in those who violate federal statutes. But any objective examination of the record reveals this is just not so. The FBI is an intelligence agency as much as an investigative one. A huge bureaucracy has helped to cover the tracks, destroying documents, covering up excesses, thwarting Congressional investigations, and simply enough, lying. It is difficult to disagree with Richard Powers’ contention that the agency is ‘broken.’ Unless it is willing to confront its ghosts head-on, the FBI’s historical mission will remain compromised.


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