

IN THEIR BID FOR SPECIAL MASTER, PROJECT VERITAS PROVIDED EVIDENCE OF POSSIBLE EXTORTION

The warrants targeting James O’Keefe and two other Project Veritas figures list “Conspiracy to transport stolen property across state lines and conspiracy to possess stolen goods” and “Interstate transportation of stolen property” as the primary crimes under investigation.

That raised real concerns for me about the propriety of this search, because *Bartnicki* says that it is not illegal for journalists (or anyone else, including rat-fuckers like PV) to receive stolen information if they had nothing to do with the theft. This seemed like it might be a backdoor way to go after PV’s “journalism.”

A NYT story that fills in many of the details about the investigation into PV explains why such charges might not be unreasonable in this case: as PV had explained in multiple filings, PV appears to have had the diary transported from New York back to Florida to “return it” to law enforcement. It’s *how* (and when) they did so that is of interest. They did so only after being told they should treat the diary as stolen, and after Joe Biden had been declared the winner of the election last year.

Mr. O’Keefe’s lawyers said in a court filing last month that Project Veritas arranged for Ms. Biden’s items to be delivered in early November to the police in Florida, not far from the house where she had left them. As the investigation came to light last month, Mr. O’Keefe said in a statement that “Project Veritas gave the diary to law enforcement to ensure it could be

returned to its rightful owner.”

But a Delray Beach Police Department report and an officer’s body camera video footage tell a somewhat different story. On the morning of Sunday, Nov. 8 – 24 hours after Mr. Biden had been declared the winner of the election – a lawyer named Adam Leo Bantner II arrived at the police station with a blue duffel bag and another bag, according to the police report and the footage. Mr. Bantner declined to reveal the identity of his client to the police.

Project Veritas has said in court filings that it was assured by the people who sold Ms. Biden’s items to the group that they were abandoned rather than stolen. But the police report said that Mr. Bantner’s client had told him that the property was “possibly stolen” and “he got it from an unknown person at a hotel.”

The video footage, which appears to be a partial account of the encounter, records Mr. Bantner describing the bags as “crap.” The officer can be heard telling Mr. Bantner that he is going to throw the bags in the garbage because the officer did not have any “information” or “proof of evidence”

“Like I said, I’m fine with it,” Mr. Bantner replied.

But the police did examine the contents of the bag and quickly determined that they belonged to Ms. Biden. The report said the police contacted both the Secret Service and the F.B.I., which later collected the items.

This lawyer, who is not listed among the close to forty lawyers with whom PV is claiming privilege, told Del Ray cops a story – that his client obtained the diary from a hotel – that

doesn't match any of the details PV is now using for their cover story. So if he weren't already in trouble for telling cops a false story unprotected by privilege, PV may have created some problems for him.

The FBI included several kinds of evidence pertaining to location in their warrants (which, among other things, will help them determine who traveled with the diary back and forth from Florida).

Evidence of the location of Ashley Biden's property and the location of the user of the Subject Accounts at times relevant to the Subject Offenses, such as communications that reference particular geographic locations or refer to the property being located in a particular place.

[snip]

Evidence of the identity, locations, knowledge, and participation in the Subject Offenses of potential co-conspirators, such as communications with other individuals—including, but not limited to, Jennifer Kiyak, Tyler Moore, Elaine Ber, Anthony Wray, Jackson Voynick, Leon Sculti, Robert Kurlander, Aimee Harris, Stephanie Walczak, and Elizabeth Fago—about obtaining, transporting, transferring, disseminating, or otherwise disposing of Ashley Biden's stolen property, including but not limited to communications reflecting the knowledge of coconspirators that the property obtained from Ashley Biden had been stolen, and communications that contain personally identifiable information of co-conspirators and references to coconspirators' places of residence or locations at particular points in time.

[snip]

Evidence reflecting the location of

other evidence with respect to the Subject Offenses, such as communications reflecting registration of online accounts potentially containing relevant evidence of the scheme. [my emphasis; redaction fail PV's]

Bartnicki protects journalists from possessing stolen property if they didn't have a role in stealing it. But it *doesn't* protect journalists from transferring stolen property that they choose not to publish back across state lines in a ploy to ensure it no longer remains in their possession in case of investigation.

The crime under investigation, then, may not be transferring the diary from Florida to New York, but transferring it back after Biden won, something that PV seems to be spinning as a do-gooder effort to reunite Ms. Biden with her property.

Investigating this shady attempt to unload the diary may be a way to obtain evidence of a more typical crime that PV (as opposed to their co-conspirators) may have committed: extortion, which is not among the listed crimes but which would show up in plain view in a return of the materials being sought. The FBI sought information on communications to Ms. Biden and her family.

Evidence of communications regarding or in furtherance of the Subject Offenses, such as communications with or relating to Ashley Biden (and representatives thereof) and/or Ashley Biden's family, friends, or associates with respect to her stolen property.

[snip]

Evidence of steps taken in preparation for or in furtherance of the Subject Offenses, such as surveillance of Ashley Biden or property associated with her, and drafts of communications to Ashley Biden, President Biden, and Ashley

Biden's associates regarding her stolen property and communications among co-conspirators discussing what to do with her property.

Such communications would be necessary, of course, to confirm that (and when) PV and its alleged co-conspirators affirmatively learned that Ms. Biden considered the diary stolen. But it will also return details of this type of communication, as reported by NYT:

On Oct. 16, 2020, Project Veritas wrote to Mr. Biden and his campaign that it had obtained a diary Ms. Biden had "abandoned" and wanted to question Mr. Biden on camera about its contents that referred specifically to him.

"Should we not hear from you by Tuesday, October 20, 2020, we will have no choice but to act unilaterally and reserve the right to disclose that you refused our offer to provide answers to the questions raised by your daughter," Project Veritas' chief legal officer, Jered T. Ede, wrote.

In response, Ms. Biden's lawyers accused Project Veritas of threatening them as part of "extortionate effort to secure an interview" with Mr. Biden in the campaign's closing days.

Ms. Biden's lawyers refused to acknowledge whether the diary belonged to Ms. Biden but told Mr. Ede that Project Veritas should treat it as stolen property – the lawyers suggested that "serious crimes" might have been committed – and that any suggestion that the diary was abandoned was "ludicrous."

As I previously noted, when O'Keefe made a flossweat video to try to spin his actions, he *offered up* that PV had made no threats.

In his heavily-edited flopsweat video, O'Keefe states PV "never threatened or engaged in any illegal conduct." It would be unusual for PV not to try to confront anyone with a valuable document; their schtick is misrepresenting the response of their targets. And in all of PV's communications, they emphasize efforts to validate the diary, which might be a way to spin other kinds of communications. [my emphasis]

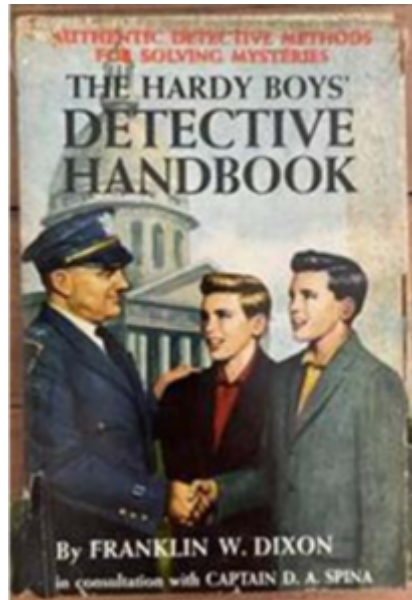
Calling up a Presidential candidate and demanding an interview on threat of publication of the diary sure seems like a threat.

Both Spencer Meads...

One could argue that utilizing federal law enforcement resources to investigate whether the personal diary of a then-presidential candidate's daughter was stolen – a task that almost certainly be given low priority treatment by a local police detective if the diary's owner was an average American – should be beneath the Department of Justice's purview.

And PV mock the idea that the FBI would investigate a mere stolen diary.

If a person not named Biden had misplaced her diary and overnight bag, would the FBI investigate at all, much less raid the home of one of America's most influential journalists? The case of the abandoned diary (or the case of the abandoned overnight bag) is an investigation better suited for the Hardy Boys than the DOJ and FBI.



The notion might be funny, except that the actions of the United States Attorney's Office for the Southern District of New York inflict serious violence not just on the credibility of that office, but on the First Amendment to the Constitution of the United States itself.

But if the diary were valuable enough to extort a Presidential candidate over, it would surely merit the attention of the FBI.

And this is where PV may have really fucked themselves. Purportedly as part of an effort to prove PV's journalistic ethics (but possibly in an effort to coordinate stories with co-conspirators), PV attorney Paul Calli produced an email dated October 12, 2020, which he claims shows PV's decision, already made, not to publish the diary.

Although there was compelling evidence of the diary's authenticity, James O'Keefe and Project Veritas's newsroom staff ultimately found that the evidence of authenticity did not rise to a level sufficient to satisfy their journalistic ethical standards for news publishing. This remains fully consistent with their internal belief that the diary was

genuine – the sordid nature of the diary’s contents required that a high threshold be satisfied prior to running a story on it. As James O’Keefe summarized the editorial concerns in an October 12, 2020, email:

Team, I’ve thought carefully on whether to release this so-called ‘Sting Ray’ story which involve entries in a personal diary to a very public figure.

My thinking and analysis in short is this:

To release means the action is less wrong than the necessary wrongs that would follow if the information were not utilized and published. But in this case even more harm would be done to the person in question and Project Veritas if we were to release this piece. We have no doubt the document is real, but [i]t is impossible to corroborate the allegation further. The subsequent reactions would be characterized as a cheap shot.

Whereas the great novelist Ernest Hemingway said[,] “[W]hat is moral is what you feel good after and what is immoral is what you feel bad after,” the great novelist Thomas B. Morgan paraphrased thus[:] “Morally defensible journalism is rarely what you feel good about afterward; it is only that which makes you feel better than you would otherwise.[”]

Using the Hemingway analysis, this very private entry related to a public figure’s family is not worth it, and it’s indefensible to publish what we currently have. I’m

not worried about things we look into allegations but not publishing. Our actions so far are entirely defensible.

We are launching Colorado and CT tapes this week, which are unquestionably stronger and will make waves much bigger.

Ex. B. If James O'Keefe is a "political spy," as his politically motivated detractors (such as those in corporate competitors like the New York Times) falsely allege, he could have simply published a salacious news story regarding Ashley Biden's diary. But he did not. James O'Keefe's and Project Veritas's fidelity to their journalistic ethics include high editorial standards. To the extent they harbored any doubt that the diary was authored by Ashley Biden, the United States Attorney's Office for the Southern District of New York and the FBI have removed all doubt. Nothing could be better confirmation of the diary's authenticity and the claims therein than the government's use of federal law enforcement to invade the homes of journalists who did not even run a story on the diary, but only considered doing so, and then turned all material provided to it by sources over to law enforcement. [my emphasis]

See my discussion (and, in comments, William Ockham's) of signs that this email may have been crafted by lawyers as a CYA here.

Calli presents this email as reflecting a final decision from the outlet's Editor-in-Chief not to publish this diary. Which means PV would have no journalistic purpose calling Biden after October 12. They weren't going to publish the diary.

That would mean PV would have no journalistic

purpose in calling Biden on October 16 to try to even ask for – much less extort – an interview.

There seems to be good reason why O’Keefe was flossweating. Given how heavily edited that video is, I can’t believe they left in the mention of threats.

Because at least according to the NYT, PV made a threat to a Presidential candidate after already deciding that they weren’t going to publish. And only then did they allgedly transport the stolen property back across state lines.

Update: In an obnoxious pretense of responding to (Maddow’s coverage of) the NYT story, O’Keefe posted the *second* page of the letter to Biden. It reads, in part:

Should we not hear from you by Tuesday, October 20, 2020, we will have no choice but to act unilaterally and reserve the right to disclose that you refused our offer to provide answers to the questions raised by your daughter.

That doesn’t sound much like journalism to me.

These events are covered by three SDNY dockets: 21-mc-813 for James O’Keefe, 21-mc-819 for Eric Cochran, and 21-mc-825 for Spencer Meads.