

FBI Firearms & The Myth Of The 1934 Crime Bill

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FBI & OKC PD detectives with weapons in December 1933, Shawnee, OK

Since the beginning days of law enforcement, the culture surrounding those who carry a badge, and their respective departments, has seen its share of myths, legends and folktales, some of which overlap each other.

The FBI is no exception. With regard to the 1934 Crime Bills, one perpetuating myth of its meaning to 1930s Bureau firearms has been virtually inescapable for decades despite the historical record.

Regardless of what decade we draw the written accounts from or who wrote them, *there has been a repetitive belief that FBI agents were not armed until the 1934 legislation allowed it.* This myth runs the gamut between ordinary crime enthusiasts to those who have spent years researching and writing about Bureau history including those in the academic world. Strangely perhaps, with all of the historical record available, the myth continues to this very day.

Pinpointing the reasons for survival of this myth may involve factors which could be simple or complex, or both. But it doesn't take a Sherlock Holmes to realize that some obvious elements may have played a role. Among them include the wording of the statute, limited explanations in Bureau source material, and efforts by authors and others to interpret the statute. Finally, there was little or no effort by the academic world and crime enthusiasts to examine what the statute really did - or did not - accomplish with firearms. Importantly, there was either oversight or no interest in what was occurring with weaponry and training prior to the 1934 Crime Bill.

Some might even finger point toward the progress that a historical event takes towards a mythical ending. What an event symbolizes to people, or what they feel about it, becomes of greater historical significance than the facts, which become less important. The result is that an event "takes on a life of its own."

Regardless of the reasons, the constant repetition of the myth over decades took on the classic “illusory truth effect;” the idea that if you repeat something often enough, people will slowly start to believe it’s true.

With the Administration and Attorney General, Homer Cummings's, mounting “War On Crime,” major Congressional legislation was enacted in the months of May/June 1934 providing the FBI with an overwhelming task of enforcing new laws. Congress made a variety of crimes such as bank robbery, interstate flight (and more) violations of federal law and placed enforcement at the doorstep of an already undermanned FBI. Importantly for purposes here, the law also addressed the issues of FBI special agents carrying weapons and making arrests.

The 1934 Crime Bills *did not give the FBI their authority (emphasis) to carry weapons*. Actually, the 1934 statute *expanded FBI authority* to carry firearms (concealed or not) nationwide. To believe that FBI agents carrying firearms wasn’t an *already existing legal practice* directly contradicts the historical record. Enactment of the federal law merely made the practice *uniform from state to state*, much like the power of arrest was made uniform from state to state. The key words in all of this are “expanded and made uniform.”

Leaving aside changes in arrest authority for purposes here, the enacted law (18 USC 3052) of 1934 said about firearms “..*Agents of the Federal Bureau of Investigation may carry weapons...*” It should be remembered that between the Bureau’s founding and 1934, Congress did not legislate the Bureau’s powers of arrest and use of weapons.¹ The root of any firearms use prior to 1934 would lie in the 2nd Amendment. Prior to enactment of 18 USC 3052, agents most certainly *had the same power to make arrests and to carry firearms as any private citizen*. Having to obtain permits and licenses for their firearms in accordance with state and local laws was not uncommon, especially in the area of local laws pertaining to “concealment.” The 1934 legislation provided “relief” from these obstacles as the war on crime escalated and agents became more involved in interstate travels coupled with increased shooting incidents.

The words of the 1934 statute, “*May carry weapons*,” probably left many to assume that agents did not utilize them prior to the statute. Over the decades, opinion and interpretations were added by those who believed these words were evidence of an FBI who “was not authorized,” “wasn't allowed,” “didn’t have the right,” “forbidden by law” (and similar) to carry weapons prior to the 1934 May/June crime bills.²

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After passage, the Bureau elected to keep their public source, and even internal historical accounts, simple too. FBI releases and other writings didn't use a lot of white space in any long explanations, most of the time merely restating words of the statute or using alternative language such as "statutory authority" or "empowered." Even internally, language used by the Bureau in early documents reflected no references to prior 1934 events. One particular document dated October, 1938 and titled "*Digested History Of The FBI*" only reveals "This legislation included ... and the right of these special agents to carry firearms."

In another early instance, a 1945 article for the "American Rifleman" submitted by the FBI, its written ".....*On June 18, 1934, Congress empowered Special Agents of the Federal Bureau of Investigation to carry firearms and make arrests.*" To this day, words have not changed to really any degree with both internal and external Bureau related documentation of the era. The FBI now had a statute (which they never had before) to hang their hat on - so to speak - and any further explanation would involve some extensive and maybe confusing issues for the public.

End result of all of it? Scores ended up believing — and still do — that *FBI special agents did not carry firearms until 1934.*

As the myth about FBI firearms ran its course over decades, we have to ask, "How did so many miss so much?" At a minimum, what should have aroused the suspicions of the old and new generation researchers to look further, was the existence of the obvious. Prior to the 1934 statute, there were multiple incidents of FBI shootings already publicly well known. At least four come to mind and there's no doubt that some or all of them contributed to the Administration's need to curtail the activities of the gangsters and others with the 1934 Crime Bills:

- The June 1933 "Kansas City Massacre"
- The December 1933 shootout with gangster Wilbur Underhill (see above photo)
- The shootout in March, 1934 at the Lexington Apartments, St. Paul, Minn. with Dillinger and Homer Van Meter, along with the subsequent shooting and killing of gangster, Eddie Green.
- The shootout at the "Little Bohemia" Lodge in April, 1934 with the Dillinger gang.

In two of the three, FBI agents and local lawmen were killed or wounded. Surely these battles alone should have peaked some curiosity about the Bureau's possession and authority with regard to firearms use. Critics cannot blame Hoover or the Bureau in general with "secrecy theories." The entire world of law enforcement in the 1930s and before knew agents were armed at times. Surely the public knew just from headlines of the day.

Recoverable evidence from FBI files is very clear that the supposed “authority” given by the May/June Crime Bill was not a first for the Bureau. An examination of the historical record reveals FBI weaponry in existence probably longer than anyone really thought. Crime writers and gun buffs didn’t spend a lot of time looking for it and no doubt in many cases, simply parroted opinion and interpretations provided earlier by their peers. Thus, we ended up with literally decades of repetition of a similar belief.

Weapons available to special agents and present in field offices can actually be traced back to the 1920s, and even earlier in some sporadic cases. The record is very clear the Bureau was already investigating a variety of crimes involving individuals where weapons might be needed during investigations, or apprehensions of dangerous fugitives coming from those cases. During the 1920s, two FBI special agents, Edwin C. Shanahan and Paul C. Reynolds, lost their lives to violent criminals. Both were bound by the existing 1920s Bureau regulations on firearms. We know that on a limited basis, FBI field offices around the country stocked a variety of weapons for use.

The regulations, above and in part, are present in the form of an early Bureau employee manual and reveal the regulations for use of, and existence of firearms in field offices. Dr. John Fox, the FBI’s current Historian, summarizes portions of this manual. Emphasis is on the fact *this manual is dated 1929.*

Section 11, Firearms: Employees are instructed:

a - That they are legally entitled to carry firearms for defensive purposes.

b - That, however, as a matter of policy, they are not to carry the same unless such action is authorized by their Special Agent In Charge.

c - That they are never to use such firearms except for strictly defensive purposes.

d - That a supply of firearms is kept in each field office to be issued, when necessary, to the employees by the Special Agent In Charge.

Historians will generally agree that the Kansas City Massacre of June, 1933 catapulted the FBI’s efforts in further arming its agents. Not only individually, but also enhancing the types of firearms available to the field offices. Additionally, it was a turning point in formal training.

In one historic moment revealed in a June 28, 1933, "Memorandum For The Director," J. Edgar Hoover's Executive Committee of ranking FBI personnel met that month with experts from the Washington, D. C. police department, ballistics experts and US Army advisors. The memorandum reveals "... the following equipment is the best which can be obtained for all purposes and should be supplied in appropriate quantities to all field offices..."³ Among those listed items were Colt revolvers, Thompson sub-machine guns and Army Springfield rifles. Additional firearms distribution for hundreds of special agents and multiple field offices followed during 1933 and continued well before the ink was applied to the 1934 legislation.

In June, 1933 Oklahoma SAC, Ralph Colvin made a personal appeal for better firearms by letter to J. Edgar Hoover after the Kansas City Massacre. Revealing the already existence of weapons in that office, Colvin wrote "...we have only the small light pistols furnished by the Bureau and which are entirely inadequate for the purpose."⁴ Hoover responded to Colvin, according to records, with the shipment of several Thompson machine guns.

One memorandum dated July 14/15, 1933 also reveals already existing weapons in FBI offices nationwide. The memo is titled "*List Showing Revolvers And Holsters In Bureau Offices And The Number Ordered For Each Office.*" This document reveals at the time of its writing, "Total Revolvers In The Bureau - Colts, 174, Smith & Wesson, 40." If we had the serial numbers of these firearms, Colt and Smith could tell us the years they were shipped to the Bureau and model type. There's probably little doubt that many of them were in inventory long before 1933.

Before 1933 ended, formal training at U. S. Army facilities and police departments nationwide would be operational. Firearms training instructors such as special agent "Frank" Baughman and WFO SAC, John Keith would be at the forefront of arranging weapons training, mainly with the War Department. The Bureau's relations with the U. S. Marine Corps and Quantico, Va. would not occur for another year. Mistakenly, many who believe the myth of the Crime Bill also believe that FBI firearms training wasn't formally begun until 1934. Not even close to the truth...

Written testimonials came later from those special agents who served during the very early years of the Bureau. In 1955 FBI special agent Roy McHenry provided his own experience to the magazine *Grapevine*, an internal publication of the Society Of Former Special Agents Of The FBI. McHenry served from 1917 to 1920. His written account states, in part, "The fact is that long before the passage of the [1934] act, as early as 1917... hand guns were issued to us by the Bureau..." McHenry mentioned the various handguns he carried. His testimony is corroborated by

others of the era to include special agent Mort Davis (1917-1925). In 1962 Davis told the *Grapevine*, “In a state like New York, which had a law requiring those carrying concealed weapons to obtain permits, we were warned by the SAC that we had better apply...”⁵

The reasons for the myth created by the 1934 Crime Bill could be multiple; simple or complex. But the historical record is blatantly clear that firearms and firearms training was present in the FBI long before the 1934 Crime Bill. Disregarding what occurred prior to 1934 results in “lost history,” rich with documented evidence and testimonials of firearms and training with a very young FBI. We also know that the 1933 Kansas City Massacre was a pivotal point for the Bureau in securing not only more, but better weapons and the beginning of organized and formal training. However, that training did not begin with the U. S. Marine Corps nor the facilities at Quantico, Va. In fact, very little attention has been given to the relationship between the U. S. Army and the Bureau during that 1933 - 1934 time frame.

As the summer of June, 1933 ended, for Director J. Edgar Hoover, Congressional legislation with the May/June Crime Bills was still a long way off but after Kansas City, he wasn't about to wait while men died.

Sources & Notes:

1. *The Bureau & the FBI are synonymous for purposes here to keep this simple. It's recognized the re-naming of the agency to “Federal Bureau Of Investigation [FBI]” did not occur until 1935.*

2. In two of the many examples, author Curt Gentry writes with regard to the legislation,..“special agents of the Bureau of Investigation were given the right to make arrests, execute warrants, and carry firearms, ...”. (Gentry, Curt (2011-11-07.) *J. Edgar Hoover: The Man and the Secrets (Kindle Locations 3508-3510)*. [We note that agents had “the right” to carry firearms long before.]

In another reference, the Charles Rivers Editors mention, “Hoover asked Congress for more authority and money... Bureau agents could now carry guns and were granted arrest powers.” (Charles River Editors [2012-07-29). *American Legends: The Life of J. Edgar Hoover (Kindle Locations 419-425)*. Kindle Edition. [The comment “could now carry guns” is a far cry from the historical record.]

3. FBI memorandum, June 28, 1933. Obtained by the author - FOIA. FBI file 66-3760-3. In the interest of brevity, only one of the many firearms enhancement documents of 1933 are mentioned here. Others can be found at our website.

4. Oklahoma SAC Colvin's letter to the Director, June 25, 1933. Obtained by the author. FOIA. FBI file 62-28915-115.

4. FBI memorandum, July 14/15, 1933. Obtained via FOIA FBI file 66-3760-67.

5. McHenry submission. *Grapevine*. P. 10, June-July issue, 1955 & Davis interview, 1962.

A hat tip to Judge Shawn McCarver and the current FBI Historian, Dr. John Fox for their input. Larry Wack is a retired special agent of the FBI. His website is a tribute to the early Bureau and the agents of the 1930s. Read more at: <http://historicalgmen.squarespace.com>. Opinions expressed are those of the author only.