

ONE HUNDRED SEVENTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
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March 21, 2022

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, DC 20535

Dear Director Wray:

On March 11, 2022, a news report revealed the existence of a secret Federal Bureau of Investigation audit detailing rampant violations of internal policies governing FBI investigations concerning “politicians, candidates, religious groups, news media and others.”¹ The FBI conducted this internal review in 2019 to gauge compliance with FBI rules for handling high-profile and delicate cases—known as sensitive investigative matters (SIMs)—that generally involve the activities of a domestic public official, political candidate, or religious organization.² The FBI’s audit of 353 cases found a total of 747 compliance errors in violation of internal FBI rules.³ This internal audit and the staggering number of errors it found suggest a pattern of misconduct and mismanagement within the FBI in failing to uphold internal rules for its most sensitive cases.

This internal review documented systemic FBI failures to follow its own rules and procedures. In particular, the audit found that FBI officials failed to receive approval from supervisors to open an investigation, failed to ensure that appropriate FBI attorneys review a SIM prior to opening an investigation, and did not notify the appropriate United States Attorney’s Office in writing within a month of starting an investigation—all in violation of FBI policy.⁴ Of the 353 SIMs examined, the audit noted that more than half concerned a “domestic public official.”⁵ The audit found 74 cases “had a lack of investigative activity for periods of 90 days or longer,” suggesting that these cases lingered for longer than necessary.⁶ It also noted 33

¹ Ryan Lovelace, *Exclusive: Audit Reveals FBI rule-breaking in probes involving politicians, religious groups, media*, WASH. TIMES (Mar. 11, 2022), <https://www.washingtontimes.com/news/2022/mar/11/fbi-audit-reveals-agents-rule-breaking-investigati/>.

² Fed. Bureau of Investigation, Inspections Division, External Audit and Compliance Section, 2019 Domestic Investigations and Operations Guide Audit at 2, (Jan. 10, 2020), <https://media.washtimes.com/media/misc/2022/03/11/audit.pdf>.

³ *Id.* at 3.

⁴ *Id.* at 4-6.

⁵ *Id.* at 7.

⁶ *Id.* at 6.

cases in which the FBI headquarters failed to notify the Justice Department about “all known SIMs.”⁷ Portions of the internal audit, including sections concerning search warrants and investigative methods, are redacted in the publicly available version, suggesting there could be additional misconduct that the FBI continues to shield from public scrutiny.

This secret audit adds to the list of troubling FBI misconduct when investigating sensitive matters. In 2015, when the FBI investigated former Secretary of State Hillary Clinton’s mishandling of classified information, it ran a so-called “headquarters special” that ultimately excused Secretary Clinton’s actions.⁸ Meanwhile, the FBI abused its authority to illegally spy on the Trump campaign.⁹ Two FBI agents assigned to the case boasted about their anti-Trump bias in official communications, and an FBI attorney even doctored evidence to spy on a Trump campaign official.¹⁰ The FBI has also abused its authorities under the Foreign Intelligence Surveillance Act to conduct warrantless surveillance on American citizens.¹¹ Most recently, the FBI’s Counterterrorism Division created a “threat tag” for FBI agents to use in tracking and monitoring the protected First Amendment activity of concerned parents at school board meetings.¹²

Last year, during your testimony before the Judiciary Committee, you claimed that the FBI “investigate[s] individuals with proper predication” and does not “investigate First Amendment groups . . . [or] people for speech, association, for assembly, [or] for membership in domestic First Amendment groups.”¹³ However, this internal review—which you never disclosed and which shows fundamental errors with FBI investigations touching on sensitive political and constitutional matters—calls into question the reliability of your statements. The Committee must examine whether the FBI is taking seriously its compliance with its own rules intended to protect American civil liberties.

⁷ *Id.* at 4.

⁸ See S. Comm. on Homeland Sec. & Governmental Aff., *The Clinton Email Scandal and the FBI’s Investigation of It* (Feb. 7, 2018); Thomas J. Baker, *How to Restore the FBI’s Culture*, Wall St. J., Aug. 27, 2018; Transcribed Interview of Andrew McCabe, in Wash., D.C. (Dec. 21, 2017); Transcribed Interview of Peter Strzok, in Wash., D.C. (June 27, 2018); Transcribed Interview of John Giacalone, in Wash., D.C. (June 21, 2018).

⁹ Dep’t of Justice Off. of Inspector Gen., *Review of Four FISA Applications and Other Aspects of the FBI’s Crossfire Hurricane Investigation* (Dec. 2019).

¹⁰ *Id.* at xi; Dep’t of Justice Off. of Inspector Gen., *A Review of Various Actions by the Federal Bureau of Investigation and Department of Justice in Advance of the 2016 Election* at 395-400 (2018).

¹¹ Dep’t of Justice Off. of Inspector Gen., *Review of Four FISA Applications and Other Aspects of the FBI’s Crossfire Hurricane Investigation* (Dec. 2019); Dep’t of Justice Off. of Inspector Gen., *Management Advisory Memorandum for Director of the Federal Bureau of Investigation Regarding the Execution of Woods Procedures for Applications Filed with the Foreign Intelligence Surveillance Court Relating to U.S. Persons* (Mar. 2020); Dep’t of Justice Off. of Inspector Gen., *Audit of the Federal Bureau of Investigation’s Execution of Its Woods Procedures for the Applications Filed with the Foreign Intelligence Surveillance Court Relating to U.S. Persons* (Sept. 2021); Memorandum Opinion and Order, *Document re Section 702 Certification* (FISA Ct. Nov. 18, 2020); Ellen Nakashima, *Federal court approved FBI’s continued use of warrantless surveillance power despite repeated violations of privacy rules*, WASH. POST (Apr. 26, 2021).

¹² Email from Carlton Peebles, Deputy Assistant Dir., Criminal Investigative Div., Fed. Bureau of Investigation, to FBI_SACS (Oct. 20, 2021).

¹³ *Oversight of the Federal Bureau of Investigation: Hearing before the H. Comm. on the Judiciary*, 117th Cong. (2021).

In light of this troubling internal review and to assist the Committee's investigative and oversight work, please provide the following documents and information:

1. An unredacted copy of the FBI Inspection Division's audit titled "2019 Domestic Investigations and Operations Guide Audit" dated January 10, 2020;
2. All documents and communications referring or relating to the FBI Inspection Division's 2019 Domestic Investigations and Operations Guide Audit dated January 10, 2020;
3. A description of the FBI's predicate to open sensitive investigative matters of politicians, candidates, religious groups, and others, as documented in the FBI Inspection Division's 2019 Domestic Investigations and Operations Guide Audit dated January 10, 2020;
4. An explanation of whether the FBI has resolved compliance issues related to sensitive investigative matters identified in the secret audit; and
5. Unredacted copies of all internal reviews conducted by the FBI's Inspection Division between November 1, 2019, and the present.

Please provide this information and briefing as soon as possible but not later than 5:00 p.m. on April 4, 2022. After you have provided this information in writing, we ask that your staff provide a staff-level briefing on this topic. If you have any questions about this request, please contact Committee staff at (202) 225-6906.

Thank you for your prompt attention to this matter.


Sincerely,



Jim Jordan
Ranking Member



Andy Biggs
Ranking Member
Subcommittee on Crime, Terrorism,
and Homeland Security



Mike Johnson
Ranking Member
Subcommittee on the Constitution,
Civil Rights and Civil Liberties

The Honorable Christopher A. Wray

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cc: The Honorable Jerrold L. Nadler, Chairman
The Honorable Sheila Jackson Lee, Chair, Subcommittee on Crime, Terrorism, and
Homeland Security
The Honorable Steve Cohen, Chairman, Subcommittee on the Constitution, Civil Rights
and Civil Liberties
The Honorable Michael E. Horowitz, Inspector General, U.S. Department of Justice