

United States Senate

WASHINGTON, DC 20510

July 20, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice

Dear Inspector General Horowitz:

On August 6, 2020, we received a briefing from the FBI which, according to the FBI, was done in conjunction with the Intelligence Community (IC). This briefing was done because of political pressure from Democratic Leadership, not because of any real threat. We have asked to meet with FBI Director Christopher Wray to discuss our concerns and have requested records relating to the briefing; however, he and his Chief of Staff, Corey Ellis, have refused to answer our communications and have failed to provide any answers or information.¹ FBI leadership's failure to respond to congressional inquiries not only undermines the FBI as an institution, it also undermines the work of its dedicated agents and staff.

On July 13, 2020, Minority Leader Chuck Schumer, Senator Mark Warner, Speaker Nancy Pelosi, and Representative Adam Schiff sent a letter, with a classified attachment, to the FBI to express a purported belief that Congress was the subject of a foreign disinformation campaign.² In that letter, which was publicly released on July 20, 2020, they requested a briefing on foreign efforts to interfere in the 2020 U.S. presidential election.³ The classified attachment included unclassified elements that, among other things, attempted — and failed — to tie our joint investigation into the Biden family's foreign financial deals to foreign disinformation.

One of those elements was an unclassified paragraph that summarized an open source document created by Russia-aligned Ukrainian Andriy Derkach, which mentioned us along with other Republican senators and administration officials. In that document, we are labeled as individuals who are fighting against Ukrainian corruption and under our pictures was an envelope icon. The Democrats speculated that the envelope icon possibly suggested that we *might* have received information from this Ukrainian national. Liberal media outlets picked up that reference, clearly from a leak, even though we had not received any information from that Ukrainian national, including any alleged tapes. Those media outlets reported that we had in fact received information from Derkach, which is false.⁴ Indeed, clicking on the envelope icon in the

¹ Email sent to Corey Ellis on July 2, 2021 at 4:07pm; July 8, 2021 at 2:28pm; July 9, 2021 at 11:07am.

² Letter from Minority Leader Charles Schumer, Vice Chairman Mark Warner, S. Select Comm. on Intelligence, Speaker Nancy Pelosi, and Chairman Adam Schiff, H. Select Comm. on Intelligence, to Fed. Bureau of Investigation (July 13, 2020), https://intelligence.house.gov/uploadedfiles/20200713_big_4_letter_to_fbi_director_wray_-_defensive_briefing_signed.pdf.

³ Letter from Minority Leader Charles Schumer, Vice Chairman Mark Warner, S. Select Comm. on Intelligence, Speaker Nancy Pelosi, and Chairman Adam Schiff, H. Select Comm. on Intelligence, to Fed. Bureau of Investigation (July 13, 2020), https://intelligence.house.gov/uploadedfiles/20200713_big_4_letter_to_fbi_director_wray_-_defensive_briefing_signed.pdf; see also Press Release, Nancy Pelosi Speaker of the House, Pelosi, Schumer, Schiff, Warner Send Letter to FBI Director Requesting Defensive Counterintelligence Briefing for All Members (July 20, 2020), <https://www.speaker.gov/newsroom/72020-2>.

⁴ See Natasha Bertrand, Andrew Desiderio, and Kyle Cheney, *Democrats: Packets sent to Trump allies are Part of Foreign Plot to Damage Biden*, POLITICO (July 23, 2020), <https://www.politico.com/news/2020/07/23/democrats-letters-to-trump-allies-are->

document produces a collection of public letters we had sent during our investigation, not any additional documents that Derkach allegedly sent to us. Although the Democrats' letter and attachment from July 13 targeted our investigation, we were not copied on the letter and were not granted access to the classified portion until two weeks after it was sent to FBI and one week after portions of it were publicly reported. Notably, during our transcribed interview of George Kent, then-Ranking Member Peters' staff – not our staff – inserted into the interview record the same Derkach-created documents, which Kent described as Russian disinformation.⁵

On July 16, mere days before the Democrats' July 13 letter became public, then-Ranking Member Peters and then-Ranking Member Wyden wrote to us to request a briefing from the FBI's Foreign Influence Task Force and other relevant members of the IC on matters related to our investigation.⁶ On July 28, 2020, we responded to the Ranking Members and reminded them that in March 2020, the FBI and relevant members of the IC had briefed the Committees regarding the investigation and provided assurances at that time that there was no reason that our Committees should not continue their investigation.⁷ Additionally, during that briefing, the agencies made clear to Republican and Democratic staff that they did not have any additional information to provide and that the relevant written products, which members have had access to for months, speak for themselves. Subsequently, on August 6, 2020, we received another briefing from the FBI on behalf of the IC, in which the FBI stated that it is not attempting to “quash, curtail, or interfere” in the investigation in any way.

On July 20, 2020, Politico reported on the contents of the Democrats' July 13, 2020 letter.⁸ Unnamed sources for the article alleged that the classified attachment cited the investigation into Hunter Biden and others as “one of the sources of ... concern.”⁹ A subsequent Politico article, again citing unnamed sources, reported that in 2019, Derkach allegedly sent information to several members of Congress, including us and then-Ranking Member Wyden and Ranking Member Peters.¹⁰ The article then further suggested that these weak parallels reinforced the “suspicions” of some Democrats that our investigation was “‘laundering’ a foreign influence campaign to damage Biden.”¹¹ We repeatedly and publicly rejected claims that we had any engagement with Derkach.¹² In August 2020, Derkach was publicly identified by the IC as a

foreign-plot-to-damage-biden-380217; As the Ranking Members have repeatedly said, they and their staff have not received, relied upon, or solicited information from Derkach.

⁵ George Kent testimony at 150, 156. <https://www.finance.senate.gov/imo/media/doc/Transcripts%20combined.pdf>.

⁶ Letter from Ranking Member Ron Wyden, S. Comm. on Fin., and Ranking Member Gary Peters, S. Comm. on Homeland Sec. and Governmental Aff., to Chairman Grassley, S. Comm. on Fin., and Chairman Ron Johnson, S. Comm. on Homeland Sec. and Governmental Aff. (July 16, 2020),

https://www.hsgac.senate.gov/imo/media/doc/200716_Letter_PetersWyden_IntelligenceBriefingRequest.pdf.

⁷ Letter from Chairman Charles Grassley, S. Comm. on Fin., and Chairman Ron Johnson, S. Comm. on Homeland Sec. and Governmental Aff., to Ranking Member Ron Wyden, S. Comm. on Fin., and Ranking Member Gary Peters, S. Comm. on Homeland Sec. and Governmental Aff. (July 28, 2020), <https://www.grassley.senate.gov/sites/default/files/2020-07-28%20RHJ-CEG%20Letter%20to%20Peters-Wyden%20%28Defensive%20Briefing%29.pdf>.

⁸ See Natasha Bertrand, Kyle Cheney, and Andrew Desiderio, *Dem leaders demand FBI briefing on 'foreign interference campaign' targeting lawmakers*, POLITICO (July 20, 2020), <https://www.politico.com/news/2020/07/20/democrats-fbi-briefing-foreign-interference-campaign-373134>.

⁹ See *id.*

¹⁰ See Natasha Bertrand, Andrew Desiderio, and Kyle Cheney, *Democrats: Packets sent to Trump allies are Part of Foreign Plot to Damage Biden*, POLITICO (July 23, 2020), <https://www.politico.com/news/2020/07/23/democrats-letters-to-trump-allies-are-foreign-plot-to-damage-biden-380217>. As the Ranking Members have repeatedly said, they and their staff have not received, relied upon, or solicited information from Derkach.

¹¹ See *id.*

¹² Press Release, Sen. Charles E. Grassley, Johnson, Grassley Denounce Democrat Disinformation Campaign In Response To Peters, Wyden, Democrat Leaders' Letters (July 28, 2020), <https://www.grassley.senate.gov/news/news-releases/johnson-grassley-denounce-democrat-disinformation-campaign-response-peters-wyden>; see also Press Release, Sen. Charles E. Grassley, Grassley (Again) Rejects Democrats' Baseless Claims About Burisma Probe (Sept. 16, 2020),

proponent of a foreign-sourced influence campaign to influence the 2020 election. He was later sanctioned by the Trump administration's U.S. Department of Treasury for the same activity.¹³ We praised the Treasury for imposing those sanctions.¹⁴

Since we did not receive, and were unaware of, the information that Derkach had allegedly sent, it is impossible that Derkach's efforts could have shaped our investigation in any way.

Then, on May 1, 2021, the Washington Post reported on "an extensive effort by the [FBI] to alert members of Congress...that they faced a risk of being used to further Russia's attempt to influence the election's outcome[.]"¹⁵ This statement was attributed to "several current and former U.S. officials" who remained anonymous "because the matter remains highly sensitive." The article then inaccurately proceeded to link Russian disinformation attempts to our investigation, which was based on Obama administration government records and records that showed extensive financial connections between the Biden family and questionable foreign nationals, including individuals connected to the communist Chinese government's military and intelligence services.

The Washington Post reporting purported to be based, in part, on an August 6, 2020, briefing that we received from the FBI, which, as the timeline above illustrates, happened in response to pressure from Democratic Leadership. The briefing was not specific. Moreover, it consisted primarily of information that we already knew and information unconnected to our investigation. We made clear to the FBI briefers on August 6, 2020, that the briefing was not relevant to the substance of our work. We also made clear our concern that the briefing would be subject to a leak that would shed a false light on the focus of our investigation. Indeed, the Washington Post article did exactly that and so did the other inaccurate media articles.

During your review of Crossfire Hurricane, you identified that counterintelligence briefings for Trump campaign officials were used by the FBI as intelligence gathering operations, concerns that we raised with the Justice Department on April 25, 2019, after we

<https://www.grassley.senate.gov/news/news-releases/grassley-again-rejects-democrats-baseless-claims-about-burisma-probe>; *see also* Press Release, Sen. Charles E. Grassley, Grassley On The Ukraine Investigation (Sept. 29, 2020), <https://www.grassley.senate.gov/news/news-releases/grassley-ukraine-investigation>; *see also* Press Release, Sen. Charles E. Grassley, Grassley On Democrats And The Media Finally Acknowledging The Hunter Biden Investigation (Dec. 10, 2020), <https://www.grassley.senate.gov/news/news-releases/grassley-democrats-and-media-finally-acknowledging-hunter-biden-investigation>; *see also* Press Release, Sen. Charles E. Grassley, Grassley On Democrats Spreading Disinformation To Protect President Biden (Mar. 18, 2021), <https://www.grassley.senate.gov/news/news-releases/grassley-on-democrats-spreading-disinformation-to-protect-president-biden>; *see also* Press Release, Sen. Charles E. Grassley, The Media Again Takes Liberal Disinformation Bait On Biden Family Oversight (May 11, 2021), <https://www.grassley.senate.gov/news/remarks/the-media-again-takes-liberal-disinformation-bait-on-biden-family-oversight>.

¹³ *See* Press Release, Off. of the Dir. of Nat'l Intelligence, Statement by NCSC Director William Evanina: Election Threat Update for the American Public, (Aug. 7, 2020), <https://www.dni.gov/index.php/newsroom/press-releases/item/2139-statement-by-npsc-director-william-evanina-election-threat-update-for-the-american-public>; *see also* Press Release, U.S. Dep't of the Treasury, Treasury Sanctions Russia-Linked Election Interference Actors (Sept. 10, 2020), <https://home.treasury.gov/news/press-releases/sm1118>.

¹⁴ Press Release, Chairman, Charles Grassley, S. Comm. on Fin., Grassley, Johnson Praise Trump Admin Actions Against Foreign Disinformation & Election Interference (Sept. 10, 2020), <https://www.grassley.senate.gov/news/news-releases/grassley-johnson-praise-trump-admin-actions-against-foreign-disinformation>.

¹⁵ Ellen Nakashima, Shane Harris and Tom Hamburger, *FBI was aware of prominent Americans, including Giuliani, were targeted by Russian influence operation*, The Washington Post (May 1, 2021). https://www.washingtonpost.com/national-security/rudy-giuliani-fbi-warning-russia/2021/04/29/5db90f96-a84e-11eb-bca5-048b2759a489_story.html.

discovered text messages between Peter Strzok and Lisa Page.¹⁶ Specifically, Peter Strzok was primarily responsible for assisting the FBI agent that would be at those briefings. In response to your findings, Director Wray established new protocols for these transition briefings to keep potential political considerations out of the decision-making process. Specifically, Director Wray noted that these briefings “should be for national security purposes and not for investigative purposes.”¹⁷ Director Wray further noted that the new FBI protocols “will complement procedures already implemented by the FBI earlier this year to govern the separate category of defensive briefings.”¹⁸ Based on the FBI’s conduct leading up to and including the August 6, 2020, briefing it appears that the FBI’s new briefing protocols are insufficient.

The August 6, 2020, briefing the FBI provided to us should have never happened and it was done because the Department and FBI succumbed to political pressure from Democratic Leadership. Because it was done based on political calculations, it violated the Department’s standards and protocols. It is clear that the Department and FBI have still not created an adequate set of standards by which to brief Congress. Should these shortcomings continue, Members of Congress may simply refuse to be briefed by the FBI out of concern that the briefings could serve as a political trap.

Accordingly, we request that you begin an immediate review and investigation relating to the Justice Department’s and FBI’s process and procedure to prepare for and provide defensive and counterintelligence briefings with particular emphasis on the August 6, 2020, briefing, and briefings to Members of Congress. We further request that your review include the policies, or lack thereof, that are in place to protect the confidentiality of these types of briefings. This review should be done with the purpose of shoring up the transition briefing process as described in your Crossfire Hurricane report and the congressional briefing process to ensure that political considerations have no impact on the Department’s and FBI’s decision-making process.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary



Ron Johnson
Ranking Member
Permanent Subcommittee
on Investigations

¹⁶ Press Release, Sen. Charles E. Grassley, Chairmen Press DOJ To Probe FBI ‘Spying’ & Leaks Before & After 2016 Election (Apr. 25, 2019), <https://www.grassley.senate.gov/news/news-releases/chairmen-press-doj-probe-fbi-spying-leaks-after-2016-election>.

¹⁷ Dep’t of Justice Off. of Inspector Gen., 20-012, Review of Four FISA Applications and Other Aspects of the FBI’s Crossfire Hurricane Investigation, 426 (2019). Emphasis in original.

¹⁸ *Id.*