

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR
MARGARET E. DAUM, MINORITY STAFF DIRECTOR

May 11, 2018

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

Dear Director Wray:

I respectfully write to request information about the Federal Bureau of Investigation's (FBI) efforts to comply with congressional oversight. Over the past several months, the Committee has received FBI documents, produced via the Department of Justice (DOJ), containing excessive redactions that hinder the Committee's oversight. I understand that the FBI has been primarily responsible for redacting these documents.¹

In April 2018, the Attorney General appointed U.S. Attorney John Lausch to oversee the document production process to Congress.² When I met with Mr. Lausch, we discussed the document production process as it existed before his appointment.³ I noted my concerns about the heavy redactions applied to documents, the slow pace of production, and potential conflicts of interest with FBI employees reviewing the documents.⁴ Separately, it is possible that some FBI employees whose documents may be relevant to congressional oversight may have been or may be involved in the document production process.⁵

In light of these concerns, I request that you provide the following information and material:

1. Please explain the FBI's process for producing documents to Congress, including:
 - a. The number of FBI component(s) and employee(s) involved in reviewing or redacting documents responsive to Congressional oversight;

¹ See David Shortell, *Thousands of FBI docs related to 2016 investigation turned over to House*, CNN (Apr. 9, 2018).

² Kyle Cheney and Louis Nelson, *DOJ to appoint U.S. Attorney to oversee release of Clinton documents*, Politico, Apr. 9, 2018. <https://www.politico.com/story/2018/04/09/justice-department-clinton-documents-us-attorney-508714>

³ Meeting between Sen. Ron Johnson, Chairman, S. Comm. on Homeland Security & Governmental Aff., & John Lausch, U.S. Attorney for the Northern Dist. of Ill. (Apr. 11, 2018).

⁴ *Id.*

⁵ For example, media reports suggest that employees of the FBI's Office of General Counsel (OGC) were involved in reviewing documents. See Shortell, *supra* note 1. Some OGC employees, including former General Counsel James Baker, may possess documents responsive to Congressional oversight.

- b. The FBI component(s) and employee(s) that are reviewing potentially responsive documents;
 - c. The FBI component(s) and employees(s) that are applying redactions to responsive documents;
 - d. The FBI's standards or criteria for determining the responsiveness of a document;
 - e. The FBI's standards or criteria for determining what information to redact from responsive documents;
 - f. The FBI's quality control or approval process for determining responsive documents; and
 - g. The FBI's quality control or approval process for determining what information to redact from responsive documents.
2. Please identify all FBI employees who have been involved in reviewing documents for responsiveness to Congressional oversight, including employees who may no longer be involved in the process.
3. Please identify all FBI employees who have been involved in redacting information from responsive documents, including employees who may no longer be involved in the process.
4. Please explain the FBI's steps to prevent conflicts of interest in the document production process, including:
 - a. Whether any FBI employees whose records may be responsive to Congressional oversight have been a part of the document production process in any manner. If yes, please identify these employees.
 - b. Whether any FBI employees have been recused from the document production process. If yes, please identify these employees.
5. I understand the FBI may be utilizing employees who ordinarily process Freedom of Information Act (FOIA) requests to review and redact responsive documents. Please explain how the FBI will ensure that this process does not result in redactions based upon FOIA, the Privacy Act, or other statutory restrictions inapplicable to constitutional Congressional oversight.

Please respond as soon as possible but no later than 5:00 p.m. on May 24, 2018.

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The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate “the efficiency, economy, and effectiveness of all agencies and departments of the Government.”⁶ Additionally, S. Res. 62 (115th Congress) authorizes the Committee to examine “the efficiency and economy of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices....”⁷

Thank you for your attention to this matter. If you have any questions about this request, please ask your staff to contact Brian Downey or Kyle Brosnan of the Committee staff at (202) 224-4751.

Sincerely,



Ron Johnson
Chairman

cc: The Honorable Claire McCaskill
Ranking Member

The Honorable Jeff Sessions
Attorney General

The Honorable Rod J. Rosenstein
Deputy Attorney General

The Honorable John R. Lausch Jr.
United States Attorney for the
Northern District of Illinois

Enclosures

⁶ S. Rule XXV(k); see also S. Res. 445, 108th Cong. (2004).

⁷ S. Res. 62 § 12, 115th Cong. (2017).