

United States Senate
WASHINGTON, DC 20510

October 16, 2019

VIA ELECTRONIC TRANSMISSION

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

Dear Director Wray:

With the approach of the 2020 presidential election, we write to request information regarding how the Federal Bureau of Investigation (FBI) plans to provide counterintelligence defensive briefings to candidates and senior campaign officials. On September 20, 2017, the Senate Judiciary Committee wrote to the FBI about defensive briefings provided to the Trump campaign. In response, on October 26, 2017, the FBI described defensive briefings as “an essential [] counterintelligence tool,” yet also explained that it “does not maintain a specific policy governing when such briefings are to be provided.”¹

During the 2016 presidential election, “the FBI provided a counterintelligence defensive briefing to then-candidate Trump and other senior campaign officials.”² The FBI also reported that it provided “[s]imilar briefings ... to then-candidate Hillary Clinton and the two Vice Presidential candidates prior to the November election,” as well as briefings for both campaigns’ staff.³ We now know that, at the time of the August 2016 FBI counterintelligence defensive briefing to then-candidate Trump, the FBI also had an open counterintelligence investigation concerning the Trump campaign.⁴ In light of this and other information, there are significant questions regarding the similarity of those briefings for the 2016 candidates and whether those briefings were provided in a manner consistent with past practice.⁵

The Department of Homeland Security has made clear that “[a] secure and resilient electoral process is a vital national interest.”⁶ An essential part of that process is ensuring that all candidates for office are treated fairly and are fully and equally prepared to address any potential security and counterintelligence concerns. The apparent absence of any policy, procedure, or

¹ Letter from Gregory A. Brower, Assistant Dir., Office of Cong. Affairs, Fed. Bureau of Investigation, to Charles E. Grassley, S. Comm. on the Judiciary (Oct. 26, 2017).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ Daniel Chaitin, *Trey Gowdy: FBI Gave ‘Two Different Kinds of Defensive Briefings’ to Trump and Clinton in 2016*, WASH. EXAMINER, (Jun. 23, 2019), <https://www.washingtonexaminer.com/news/trey-gowdy-fbi-gave-two-different-kinds-of-defensive-briefings-to-trump-and-clinton-in-2016>.

⁶ *Election Security*, U.S. DEP’T HOMELAND SECURITY, <https://www.dhs.gov/topic/election-security> (last updated Mar. 5, 2019).

practice for conducting defensive briefings undermines that process by risking the appearance of bias or, at worst, causing actual prejudice to a candidate for office. For these reasons, we respectfully request that the FBI please provide the following information by no later than October 30, 2019:

1. Does the FBI have established policies, procedures, and practices for providing counterintelligence defensive briefings? If yes, please produce all relevant documents, and please provide a written description of any policy, procedure, or practice not otherwise set forth in those documents. If not, please provide a written explanation for not having established such policies or procedures, and please address whether the FBI has any intention of changing that practice.
2. How does the FBI determine which candidates for federal office and senior campaign staff will receive a defensive briefing?
3. How does the FBI decide which employees will provide counterintelligence defensive briefings to candidates and senior campaign staff?
4. How does the FBI address conflicts of interest or the appearance of conflicts of interest with regard to the FBI team who will prepare and provide the counterintelligence defensive briefings?
5. What policies or procedures preclude the FBI from using counterintelligence defensive briefings as an opportunity to further an investigation into the individual(s) receiving the briefing?
6. How does the FBI determine the extent of the information it will share with a candidate and senior campaign staff during a counterintelligence defensive briefing?
7. Please provide a list and description of each defensive briefing that the FBI has provided to a candidate for federal office and senior campaign officials from the 2008 elections through 2016. In the description, please address what role, if any, other U.S. government agencies served in preparing for or providing those briefings.
8. Please explain how the FBI works with other U.S. government agencies in preparing for and delivering counterintelligence defensive briefings.
9. According to the FBI, it provided then-candidate Trump and Clinton “[s]imilar [defensive] briefings.”⁷ Please provide all documents related to the preparation for and presentation of those briefings, including a list of all FBI personnel involved in preparing for and providing the briefings.

⁷ Letter from Gregory A. Brower, Assistant Dir., Office of Cong. Affairs, Fed. Bureau of Investigation, to Charles E. Grassley, S. Comm. on the Judiciary (Oct. 26, 2017).

In addition to those requests, please provide the Committees a briefing on these topics by no later than November 6, 2019.

We anticipate that your written reply and some responsive documents will be unclassified. Please send all unclassified material directly to the Committees. In keeping with the requirements of Executive Order 13526, if any of the responsive documents do contain classified information, please segregate all unclassified material within the classified documents, provide all unclassified information directly to the Committees, and provide a classified addendum to the Office of Senate Security. Although the Committees comply with all laws and regulations governing the handling of classified information, they are not bound, absent their prior agreement, by any handling restrictions.

Thank you advance for your assistance in this matter. Should you have any questions, please contact Joshua Flynn-Brown of Chairman Grassley's Committee staff at (202) 224-4515 and Brian Downey of Chairman Johnson's staff at (202) 224-4751.

Sincerely,



Charles E. Grassley
Chairman
Committee on Finance



Ron Johnson
Chairman
Committee on Homeland Security
and Governmental Affairs

cc:

Senator Richard Shelby
Chairman
Senate Committee on Appropriations

The Honorable Michael E. Horowitz
Inspector General
Department of Justice