

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515–6216
One Hundred Sixteenth Congress

August 29, 2022

The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue N.W., Suite 4706
Washington, DC 20530

Dear Inspector General Horowitz:

On the morning of August 10, 2022, Federal Bureau of Investigation agents seized the cell phone of Representative Scott Perry while he was traveling with his family.¹ Recent reports indicate that the FBI's action is related to a joint investigation conducted by the Office of Inspector General (OIG) and the Justice Department.² The OIG's role relating to the seizure of Representative Perry's phone is inconsistent with your responsibility to conduct independent oversight of the Department and extremely troubling in light of your statutory reporting requirements to Congress.³ We have been vocal and consistent supporters of the OIG over many years, but your decision to assist the FBI in this politically charged matter demands a full and complete explanation about your unusual actions.

According to reports, the Justice Department OIG used its laboratory in Northern Virginia to assist the FBI in conducting a forensic review of Representative Perry's phone.⁴ Reports indicate that Representative Perry's phone "was imaged after the search," creating a forensic copy of the device's contents—including communications protected by common-law privileges as well as the Constitution's Speech or Debate Clause.⁵ The OIG's assistance to the FBI in imaging Representative Perry's phone—in addition to posing questions about why the nation's top law-enforcement agency cannot perform this task itself—raises serious concerns about why you would be willing to sacrifice the OIG's independence to assist the FBI in advancing such a politically charged matter.

¹ Michael Balsamo, *Rep. Scott Perry says FBI agents seized his cellphone*, AP NEWS (Aug. 10, 2022). According to Congressman Perry, the FBI agents "made no attempt to contact my lawyer, who would have made arrangements for them to have my phone if that was their wish. I'm outraged – though not surprised - that the FBI under the direction of Merrick Garland's DOJ, would seize the phone of a sitting Member of Congress. My phone contains info about my legislative and political activities, and personal/private discussions with my wife, family, constituents, and friends. None of this is the government's business." *Id.*

² Sarah Murray, et al., *Republican congressman says FBI seized his cell phone*, CNN (Aug. 10, 2022).

³ See generally P.L. 95-452 (1978).

⁴ Sarah Murray, et al., *Republican congressman says FBI seized his cell phone*, CNN (Aug. 10, 2022).

⁵ *Id.*; U.S. Const. art. I, § 6, cl. 1.

Your decision to assist the FBI relating to the seizure of a Member of Congress's phone creates a serious conflict of interest for the OIG in reviewing the Department's actions. In June 2021, the OIG initiated a review of the Department's use of subpoenas and other legal authorities to obtain communication records of Members of Congress, other individuals, and journalists.⁶ On the one hand, the OIG is reviewing whether the Department's actions in those cases were based upon any improper considerations; however, because of your decision, the OIG appears to be directly involved with seizing and imaging the phone of a Member of Congress. The OIG is now conflicted from reviewing the basis and propriety of the FBI's controversial decision to seize Representative Perry's phone.

Congress and the American people cannot afford to lose faith in the OIG, especially as the Biden Administration continues to weaponize federal law-enforcement resources against its political opponents and so many FBI whistleblowers continue to come forward with shocking allegations. You, as the former chair of the Council of the Inspectors General on Integrity and Efficiency, should not be so reckless as to risk the independence of your office to carry out the investigative work of an agency you oversee. Pursuant to the Committee's constitutional oversight authority and the Inspector General Act, we are examining your decision to assist the FBI relating to the seizure of Representative Perry's phone and the OIG's actions in this matter. Accordingly, please provide the following documents and information:

1. All documents and communications between or among employees of the Department of Justice Office of Inspector General, the Department of Justice, and the Federal Bureau of Investigation referring or relating to the seizure of a cell phone belonging to Representative Perry or to any matter concerning a Member of Congress for the period of January 2021 to the present;
2. All documents and communications between or among employees of the Department of Justice Office of Inspector General referring or relating to the seizure of a cell phone belonging to Representative Perry for the period of January 2021 to the present;
3. A complete and detailed timeline of all OIG communications with Justice Department entities/employees and all OIG actions relating to the seizure and/or imaging of Representative Perry's phone;
4. A complete and detailed explanation of the decision of the Department of Justice Office of Inspector General to assist the FBI with the seizure and/or imaging of Representative Perry's phone, including whether the FBI or Office of Inspector General considered other, less intrusive, means of pursuing its inquiry;
5. A complete and detailed explanation of the Department of Justice Office of Inspector General's forensic examination of the phone belonging to Representative Perry, including

⁶ INSPECTOR GEN., DEP'T OF JUSTICE, *DOJ OIG Initiates a Review of the Department of Justice's Use of Subpoenas and Other Legal Authorities to Obtain Communication Records of Members of Congress and Affiliated Persons, and the News Media* (June. 11, 2021).

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but not limited to all actions taken, whether any OIG employee has reviewed any of the phone's contents, and whether the OIG retains any data from the phone; and

6. A complete and detailed explanation of whether any Department of Justice Office of Inspector General employees suggested to the FBI or the Justice Department that the seizure of a Member of Congress's cell phone raises Constitutional concerns, and that the OIG should not participate in such unnecessary and aggressive actions.

Please produce this material as soon as possible but no later than 5:00 p.m. on September 12, 2022. If you have any questions about this request, please contact Committee staff at (202) 225-6906. We expect your complete and unfettered cooperation with our inquiry.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is written in a cursive, flowing style.

Jim Jordan
Ranking Member