



Office of the Attorney General  
Washington, D. C. 20530

April 22, 2021

MEMORANDUM FOR THE DEPUTY ATTORNEY GENERAL  
THE DIRECTOR, FEDERAL BUREAU OF INVESTIGATION  
THE ASSISTANT ATTORNEY GENERAL  
FOR NATIONAL SECURITY

FROM:

THE ATTORNEY GENERAL

A handwritten signature in cursive script, reading "Merrick Garland".

SUBJECT:

FURTHER AUGMENTING THE INTERNAL COMPLIANCE  
FUNCTIONS OF THE FEDERAL BUREAU OF  
INVESTIGATION

The Foreign Intelligence Surveillance Act (FISA) must be implemented with care to ensure that its use is consistent with the Constitution, the statute, and all applicable compliance requirements. The FISA framework includes both statutory and court-imposed restrictions and oversight mechanisms. In addition, internal proactive compliance measures instituted by the Executive Branch bring further rigor and accountability to the framework.

The importance of these oversight and compliance mechanisms is underscored by recent findings of the Foreign Intelligence Surveillance Court (FISC), the Office of the Inspector General, and the National Security Division (NSD), which have highlighted certain compliance issues regarding the Federal Bureau of Investigation's (FBI's) implementation of FISA.

As we have discussed, recent NSD assessments indicate compliance issues with the FBI's FISA Section 702 queries. *See, e.g., Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of [FISA], Submitted by the Attorney General and the Director of National Intelligence 57-60 (Nov. 2020).* A November 2020 opinion of the FISC noted similar problems. *See Mem. Op. & Ord. 39-44 (FISA Ct. Nov. 18, 2020) [hereinafter FISC Opinion].* These Section 702-related issues are separate from the FISA issues identified in the Office of the Inspector General's 2019 report, *Review of Four FISA Applications and Other Aspects of the FBI's Crossfire Hurricane Investigation.*

In the FISC opinion, the court acknowledged that the FBI has recently undertaken a series of changes intended to address Section 702 compliance issues, and that many of the query-compliance incidents identified by NSD in the reports to which the FISC pointed occurred before the changes were implemented. FISC Opinion 41. Those reports are nonetheless concerning and require a response. The FISC noted that "ongoing monitoring and auditing will be critical to evaluating whether the current measures are adequate." *Id.* at 44. The FBI must ensure that the changes it has implemented in recent years address the compliance issues that have been identified, and that it resolves any systemic compliance errors through proactive measures.

Memorandum for The Deputy Attorney General  
The Director, Federal Bureau of Investigation  
The Assistant Attorney General for National Security  
Subject: Further Augmenting the Internal Compliance  
Functions of the Federal Bureau of Investigation

Page 2

On August 31, 2020, the then-Attorney General issued a memorandum, *Augmenting the Internal Compliance Functions of the Federal Bureau of Investigation*, which directed the FBI to undertake a variety of auditing, assessment, and compliance-related measures applicable to a range of national security authorities. Among other reforms, last year the FBI established an Office of Internal Auditing to focus on auditing the FBI's national security activities and appointed an Assistant Director to lead that office.

To ensure that the FBI successfully institutes the measures identified in the Attorney General's memorandum and fully addresses the issues identified, I am directing that the FBI submit to the Deputy Attorney General, within 30 days, a detailed work plan regarding implementation of the August 2020 memorandum. This plan should:

- set specific and measurable goals for implementing each of the steps outlined in the Attorney General's August 2020 memorandum;
- include performance metrics to achieve a marked reduction in FISA compliance error rates; and
- establish an expeditious timeline for conducting the audits called for in the August 2020 Attorney General memorandum and the November 2020 FISC opinion.

This plan will include the steps necessary to make demonstrable progress toward meeting the highest standards of rigor in our implementation of FISA authorities. The FBI will coordinate with NSD in preparing the plan. No later than 10 days following the submission of the plan to the Deputy Attorney General, NSD will provide its concurrence or comments on the FBI's plan.

This memorandum shall be implemented consistent with applicable law and is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable by law by any party in any matter or proceeding.