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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

February 2, 2023

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Ave NW
Washington, D.C. 20535

Dear Attorney General Garland and Director Wray:

I write to express our concerns with the unsealed indictment against Charles McGonigal and to seek more information about the impact his alleged misconduct may have had on highly sensitive counterintelligence and criminal investigations.

On January 23, 2023, the U.S. Attorney's Offices for the Southern District of New York (USAO-SDNY) and for the District of Columbia (USAO-DDC) unsealed indictments against Mr. McGonigal, a former high-level counterintelligence official at the Federal Bureau of Investigation (FBI).¹ The USAO-SDNY indictment alleges that Mr. McGonigal conspired to violate sanctions against Russia by agreeing to provide services to Oleg Deripaska, a sanctioned Russian oligarch.² The USAO-DDC indictment alleges that he concealed his receipt of \$225,000 cash from a former Albanian intelligence agency employee.³ Both indictments include alleged conduct that occurred while Mr. McGonigal served as the Special Agent in Charge (SAC) of FBI's Counterintelligence Division in the New York Field Office from 2016 to 2018 and after his retirement.

These allegations are extremely disturbing and raise concerns about the potential impact this misconduct may have had on the FBI's counterintelligence matters and criminal

¹ Press Release, U.S. Att'y S.D.N.Y., Former Special Agent in Charge of the New York FBI Counterintelligence Division Charged with Violating U.S. Sanctions on Russia (Jan. 23, 2023), <https://www.justice.gov/usao-sdny/pr/former-special-agent-charge-new-york-fbi-counterintelligence-division-charged-violating>; Press Release, U.S. Att'y D.D.C., Retired FBI Executive Charged with Concealing \$225,000 in Cash Received from an Outside Source (Jan. 23, 2023), <https://www.justice.gov/usao-dc/pr/retired-fbi-executive-charged-concealing-225000-cash-received-outside-source>.

² Indictment, *United States v. McGonigal*, No. 23-cr-016 (S.D.N.Y. filed Jan. 2023).

³ Indictment, *United States v. McGonigal*, No. 1:23-cr-00021 (D.D.C. filed Jan. 18, 2023).

investigations. As a SAC for the New York Field Office, Mr. McGonigal oversaw many sensitive counterintelligence investigations, including investigations involving individuals he has now been accused of working to benefit. Mr. Deripaska was central to Paul Manafort's ties to Russia,⁴ and the FBI New York Field Office used the former Albanian intelligence agency employee as a confidential human source in a criminal investigation.⁵ Moreover, then-FBI Director James Comey named Mr. McGonigal SAC just weeks prior to the FBI's October 2016 announcement that it saw no clear link between then-presidential candidate Donald Trump and Russia.⁶ The Committee remains in the dark on the true extent to which Mr. McGonigal's alleged misconduct may have impacted these highly sensitive matters, including whether he compromised sensitive sources, methods, and analysis. Whether his alleged misconduct materially impacted the outcome of any investigations or further compromised our national security also remains unknown at this time.

It is important to ensure that the American people have the utmost confidence in the important work of the FBI. Accordingly, I ask that you contact my staff to schedule a briefing and respond to the following questions no later than February 16, 2023:

1. How many counterintelligence investigations did Mr. McGonigal oversee as SAC?
2. Of counterintelligence investigations that Mr. McGonigal oversaw as SAC, how many involved or are related to individuals he is now accused of working with or to benefit?
3. What role, if any, did Mr. McGonigal play in the FBI Crossfire Hurricane investigation into links between Russian officials and Donald Trump's 2016 presidential campaign?
4. What role, if any, did Mr. McGonigal play in Special Counsel Mueller's investigation into Russian interference in the 2016 presidential election?
5. Has the FBI identified any compromises to evidence, analysis, sources, or methods in these investigations that potentially arose from Mr. McGonigal's conduct?
6. What policies and procedures does the Justice Department and FBI have in place to detect potential misuse of public office and breaches of public trust by current and former officials?
7. Why did these policies and procedures fail to alert Justice Department and FBI officials to Mr. McGonigal's alleged conduct while he served as SAC?

⁴ Reuters Staff, *Manafort had \$10 million loan from Russian oligarch: court filing*, REUTERS (Jun. 27, 2018).

⁵ Indictment, *United States v. McGonigal*, No. 1:23-cr-00021 (D.D.C. filed Jan. 18, 2023) at 5.

⁶ Eric Lichtblau & Steven Lee Myers, *Investigating Donald Trump, F.B.I. Sees No Clear Link to Russia*, N.Y. TIMES (Oct. 31, 2016).

Thank you for your prompt attention to this important matter.

Sincerely,

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

Richard J. Durbin
Chair

cc: The Honorable Lindsey Graham, Incoming Ranking Member