

Congress of the United States

Washington, DC 20515

November 18, 2021

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Garland:

We write to request information about the Federal Bureau of Investigation's (FBI) early-morning raid of a residence belonging to James O'Keefe, the founder of Project Veritas, a non-profit media organization.¹ The FBI also reportedly conducted similar raids on residences of other former Project Veritas journalists and employees.² According to reports, the FBI conducted these raids in connection with an investigation relating to a diary purportedly belonging to President Biden's daughter.³ The FBI's actions raise questions about whether you are enforcing the prohibition you announced in July—and President Biden endorsed—against federal law enforcement seizing records from journalists.⁴

According to reports, during Project Veritas' news-gathering activities in late 2020, the organization obtained a diary purported to belong to President Biden's daughter.⁵ Project Veritas could not determine the legitimacy of the diary and chose not to publish its contents.⁶ Instead, the organization reportedly handed over the diary to law enforcement.⁷ Then, on November 6, 2021, FBI agents reportedly executed a search of O'Keefe's residence in connection with an investigation relating to the diary.⁸ Two days prior to the raid of O'Keefe's residence, the FBI reportedly also searched the homes of two former Project Veritas associates in connection with

¹ Michael S. Schmidt, et al., *F.B.I. Searches James O'Keefe's Home in Ashley Biden Diary Theft Inquiry*, N.Y. TIMES (Nov. 6, 2021).

² *Id.*

³ *Id.*; Amy B. Wang and Devlin Barrett, *FBI searches Project Veritas associates in probe over diary purportedly belonging to Biden's daughter*, WASH. POST (Nov. 5, 2021).

⁴ Memorandum from Atty Gen. Merrick Garland, U.S. Dep't of Justice, Use of Compulsory Process to Obtain Information From, or Records of, Members of the News Media (July 19, 2021); Eric Tucker, *Justice Dept. says it'll no longer seize reporters' records*, AP NEWS (June 5, 2021); Alexandra Jaffe, *Biden won't allow Justice Dept. to seize reporters' records*, AP NEWS (May 21, 2021).

⁵ James O'Keefe, *FBI and Southern District of New York Raid Project Veritas Journalists' Homes*, PROJECT VERITAS (Nov. 5, 2021).

⁶ *Id.*

⁷ *Id.*

⁸ Michael S. Schmidt, et al., *F.B.I. Searches James O'Keefe's Home in Ashley Biden Diary Theft Inquiry*, N.Y. TIMES (Nov. 6, 2021).

an investigation relating to the diary.⁹ According to O’Keefe, the Department of Justice requested that the Project Veritas journalists not disclose the existence of the warrant.¹⁰ Yet, within an hour of the FBI’s raid, the *New York Times* published a story about the search, even though the search warrant and the subject matter of the search warrant were apparently part of a grand jury investigation and should have been nonpublic.¹¹ The *Times* later published information from confidential and sensitive documents belonging to Project Veritas, including legal advice obtained relating to its news gathering activities.¹² On the same day, a federal judge in New York ordered the Department to stop extracting and reviewing the contents of Project Veritas materials that the FBI seized.¹³ The court’s order and the *Times*’ publishing of nonpublic Project Veritas information raise questions about whether any Department employee leaked, or contributed to the leak of, any nonpublic information as part of this investigation.

The FBI’s actions raise concerns about the enforcement of the policy you implemented just months ago concerning searching and seizing records from journalists and media organizations. On July 19, 2021, you issued a memorandum announcing a new policy broadly banning the Department’s use of compulsory means for obtaining information from journalists.¹⁴ Your policy extends to all subpoenas, warrants, court orders, and civil investigative demands, which would appear to include the search warrants executed against Project Veritas journalists.¹⁵ President Biden has endorsed your prohibition, saying that it is “simply, simply wrong” to confiscate journalists’ records and that he would not allow the Department to do so.¹⁶ Similarly, House Judiciary Committee Chairman Jerrold Nadler said he was “genuinely encouraged” by your new policy and that he “look[s] forward to working with” you “to make certain that these changes are codified [in law] and remain the policy of the Department for years to come.”¹⁷

The Department and the FBI must not be used for political purposes to target the Administration’s political rivals. During your confirmation hearing to be Attorney General, you vowed not to weaponize the Department, promising the Department “will be under my protection for the purpose of preventing any kind of partisan or other improper motive in making any kind of investigation or prosecution. That’s my vow. That’s the only reason I’m willing to do this

⁹ Amy B. Wang and Devlin Barrett, *FBI searches Project Veritas associates in probe over diary purportedly belonging to Biden’s daughter*, WASH. POST (Nov. 5, 2021); Michael S. Schmidt and Adam Goldman, *Project Veritas Tells Judge It Was Assured Biden Diary Was Legally Obtained*, N.Y. TIMES (Nov. 12, 2021).

¹⁰ James O’Keefe, *FBI and Southern District of New York Raid Project Veritas Journalists’ Homes*, PROJECT VERITAS (Nov. 5, 2021).

¹¹ *Id.*

¹² Adam Goldman and Mark Mazzetti, *Project Veritas and the Line Between Journalism and Political Spying*, N.Y. TIMES (Nov. 11, 2021).

¹³ Order, In re Search Warrant dated November 5, 2021, 21 MAG 10685 (S.D.N.Y. Nov. 11, 2021).

¹⁴ Memorandum from Atty Gen. Merrick Garland, U.S. Dep’t of Justice, Use of Compulsory Process to Obtain Information From, or Records of, Members of the News Media (July 19, 2021).

¹⁵ *Id.* at 1.

¹⁶ Eric Tucker, *Justice Dept. says it’ll no longer seize reporters’ records*, AP NEWS (June 5, 2021); Alexandra Jaffe, *Biden won’t allow Justice Dept. to seize reporters’ records*, AP NEWS (May 21, 2021).

¹⁷ Press Release, H. Comm. on the Judiciary, *Chairman Nadler Statement on DOJ Policy Restricting Use of Compulsory Process to Obtain Journalists’ Records*, (July 19, 2021).

job.”¹⁸ Unfortunately, as you have failed to live up to your promises on other important matters facing the Department—including by mobilizing federal law enforcement to silence concerned parents at school board meetings—we question whether the Department’s actions in this matter are consistent with your commitment.

Accordingly, to assist our oversight of the Department, we respectfully request the following documents and information:

1. Explain when and how the FBI became aware of the diary purportedly belonging to President Biden’s daughter and describe when and why it opened an investigation into the matter;
2. Provide copies of the search warrants, affidavits, and all other supporting documents related to the FBI’s search of residences of James O’Keefe and other current or former journalists or employees of Project Veritas;
3. Explain the factual and legal predicate for the FBI to conduct raids at the homes of James O’Keefe and other current or former journalists or employees of Project Veritas;
4. Describe the process the Department followed when obtaining subpoenas for the FBI to obtain information from, or records of, James O’Keefe and other current or former journalists or employees of Project Veritas, including whether you and/or any other Department officials approved the decision to obtain such subpoenas;
5. Explain what steps, if any, the Department has taken or will take to investigate the leaking of Project Veritas’ information to the *New York Times*; and
6. Explain whether any official or employee of the Executive Office of the President communicated with the Department and/or the FBI about investigating or searching the residences of James O’Keefe and other current or former employees of Project Veritas.

Please provide this information as soon as possible but no later than 5:00 p.m. on December 2, 2021. If you have any questions about this request, please contact House Judiciary Committee staff at (202) 225-6906, House Oversight Committee staff at (202) 225-5074, or Senate Permanent Subcommittee on Investigations staff at (202) 224-3721.

¹⁸ Jeremy Herb, *Garland vows at confirmation hearing to keep politics out of DOJ while drawing bipartisan praise*, CNN (Feb. 22, 2021).

The Honorable Merrick B. Garland

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Thank you for your attention to this matter.

Sincerely,



Jim Jordan
Ranking Member
House Committee on the Judiciary



James Comer
Ranking Member
House Committee on
Oversight and Reform



Ron Johnson
Ranking Member
Senate Permanent Subcommittee on Investigations

cc: The Honorable Jerrold L. Nadler
Chairman
U.S. House Committee on the Judiciary

The Honorable Carolyn B. Maloney
Chairwoman
U.S. House Committee on Oversight and Reform

The Honorable Christopher Wray
Director
Federal Bureau of Investigation

The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice