

United States Senate

WASHINGTON, DC 20510

February 7, 2023

The Honorable Merrick Garland
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Garland:

I write to you regarding the recent arrest of former FBI counterintelligence chief Charles McGonigal. McGonigal's arrest raises the potential for a plea and the possibility of a debrief. In the event that debrief occurs, I would like your assurance that someone independent of the FBI will be involved.

Because McGonigal was the Special Agent in Charge of the FBI's New York Field Office counterintelligence division in the weeks leading to the 2016 election, he may have knowledge of or have participated in political activities to damage then-candidate Hillary Clinton and help then-candidate Donald Trump. For instance, during that time period, Rudy Giuliani announced that a "big surprise" related to Secretary Clinton would be forthcoming from the FBI, hinting he received that information from the New York Field Office.¹ The very next day, Director James Comey, reportedly bowing to internal pressure from that office, broke the FBI's ordinary policy of declining to comment on ongoing matters close to an election and announced the FBI would reopen its investigation into Secretary Clinton's use of a private email server in light of the discovery of emails on Anthony Weiner's laptop.²

The situation is even more troubling given that McGonigal was arrested for, among other things, allegedly working with Russian oligarch Oleg Deripaska, whom McGonigal was assigned to investigate while working for the FBI.³ Deripaska, a known associate of Trump 2016 campaign chairman Paul Manafort, was sanctioned for interfering with the 2016 presidential election to help Donald Trump.⁴

¹ Christina Manduley and Eugene Scott, *Giuliani changes story on FBI*, CNN (Nov. 5, 2016), <https://www.cnn.com/2016/11/04/politics/rudy-giuliani-hillary-clinton-email-fbi>.

² Adam Goldman and Alan Rappeport, *Emails in Anthony Weiner Inquiry Jolt Hillary Clinton's Campaign*, N.Y. Times (Oct. 28, 2016), <https://www.nytimes.com/2016/10/29/us/politics/fbi-hillary-clinton-email.html>.

³ Press Release, U.S. Dep't of Justice, U.S. Attorney's Office, 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>.

⁴ Luc Cohen and Jonathan Stempel, *U.S. charges Russian billionaire Oleg Deripaska with violating sanctions*, Reuters (Sept. 29, 2022), <https://www.reuters.com/legal/us-unseals-indictment-against-oleg-deripaska-violating-sanctions-2022-09-29/>.

All of this is potentially embarrassing to the FBI, making it vital that any plea be accompanied by a full debrief and that someone outside the organization lead any debrief that takes place. Please provide assurances that the FBI will not be put in a position to obscure any misconduct that might have occurred within its ranks.

Very truly yours,



SHELDON WHITEHOUSE
Chair, Senate Judiciary Subcommittee on
Federal Courts, Oversight, Agency Action,
and Federal Rights

cc: Michael E. Horowitz, Inspector General of the Department of Justice