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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

October 15, 2013

VIA ELECTRONIC TRANSMISSION

The Honorable James B. Comey, Jr.
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, DC 20535

Dear Director Comey:

During your confirmation hearing before the Senate Committee on the Judiciary, you testified that your time at Bridgewater Associates taught you the value of transparency and that you would seek to spread it as far as you could within the Federal Bureau of Investigation (FBI).¹ Keeping that in mind, Director Mueller left pressing questions regarding the Boston Marathon bombing unanswered upon his departure.

Following the Committee's June 19, 2013, FBI oversight hearing, my office submitted multiple questions about the Boston bombing.² One set of questions pertained to the activities of the FBI prior to the bombing on April 15, 2013. According to the *New York Times*, of the 22 most alarming plans for attacks since 9/11 on American soil, 14 involved FBI sting operations using undercover agents and informers who pose as terrorists.³ In addition, Director Mueller testified the previous week in June at a House hearing that the FBI agent initially investigating the older brother involved in the bombing did an excellent job and used the tools available to him at the time.⁴ I was interested in learning more about those tools, and thus asked in Questions for the Record:

1. Did the FBI attempt to use the tactic of 'recruitment' or a sting operation with Tamerlan Tsarnaev? If not, why not?
2. Other than Tamerlan Tsarnaev's interview by agents following the warning from Russia, has the FBI had any other contact with the either of the brothers?

¹ Testimony of James B. Comey, Jr. before the Senate Committee on the Judiciary, July 9, 2013.

² Questions for the Record of Senator Charles E. Grassley following the Senate Committee on the Judiciary Hearing on FBI Oversight, June 19, 2013.

³ David Shipler, "Terrorist Plots, Hatched by the F.B.I.," *The New York Times* (Apr. 28, 2012) available at http://www.nytimes.com/2012/04/29/opinion/sunday/terrorist-plots-helped-along-by-the-fbi.html?pagewanted=all&_r=0.

⁴ Testimony of Robert Mueller, III before the House Judiciary Committee, June 13, 2013.

On May 10, 2013, the FBI provided Senate staff members a comprehensive TS/SCI briefing on the Boston Marathon bombing. During the course of the briefing, several unclassified questions were asked. A member of my staff asked one series of unclassified questions. However, the FBI provided no substantive answers, citing a need to gather more information and provide complete answers at a later date. Since my staff received no further response to the inquiries, I submitted them as Questions for the Record following the Committee's July 31, 2013, oversight hearing on the Foreign Intelligence Surveillance Act:

3. At what time and date were the images of Dzhokhar Tsarnaev and/or Tamerlan Tsarnaev discovered on video or photograph for the *first time* as being at least one or both of the individuals reasonably believed to be involved in the bombing?
4. Who made that determination and for what agency did that individual work?
5. Following this initial determination, what investigative steps did the FBI take *or* attempt to take *prior* to releasing the photos to the public?
6. Did the FBI have the suspects under physical surveillance at any time *prior* to releasing the photos to the public?

In your testimony during your confirmation hearing, you stated, "Federal, state, and local enforcers in a particular jurisdiction and across jurisdictions have to cooperate and work together."⁵ On May 9, 2013, Boston Police Chief Ed Davis testified before the House Homeland Security Committee about the Boston Marathon bombing. Chief Davis made it clear that federal agents never advised local officials of the 2011 investigation of one of the suspects in the bombings.⁶ This failure occurred despite the fact that four officers from the Boston Police Department were assigned to the FBI's Joint Terrorism Task Force (JTTF). In response to Chief Davis's testimony, former FBI Special Agent in Charge Richard DesLauriers stated to *The Boston Globe* that the Boston Police Officers had access to the investigation of the suspect through the Guardian database.⁷ These facts suggest that information could be more effectively shared between law enforcement agencies.

My office has been made aware of another instance following the bombing in which it appears that information was not shared. In the hours leading up to the shooting of Massachusetts Institute of Technology (MIT) Police Officer Sean Collier and the death of the older suspect involved in the bombing, sources revealed that uniformed

⁵ Testimony of James B. Comey, Jr. before the Senate Committee on the Judiciary, July 9, 2013.

⁶ Testimony of Edward Davis before the House Committee on Homeland Security, May 9, 2013.

⁷ Matt Viser, "Tensions emerge over lack of Tsarnaev information shared between FBI, local authorities," *The Boston Globe* (May 9, 2013) *available at* <http://www.boston.com/politicalintelligence/2013/05/09/tensions-emerge-over-lack-tsarnaev-information-shared-between-fbi-local-authorities/coJqORZNBkQJomxbODmwVK/story.html>.

Cambridge Police Department officers encountered multiple teams of FBI employees conducting surveillance in the area of Central Square in Cambridge, Massachusetts. It is unclear who the FBI was watching, but these sources allege that the Cambridge Police Department, including its representation at the JTTF, was not previously made aware of the FBI's activity in Cambridge.

Continued reluctance on the part of the FBI to share information with local law enforcement, especially in the wake of the Whitey Bulger saga and your ongoing Mark Rossetti investigation, would be extremely troubling. Thus, in addition to my previous questions above, please also answer the following:

7. Was the FBI conducting surveillance in the area of Central Square in the City of Cambridge on the night MIT Officer Sean Collier was shot dead?
8. Did the FBI notify anyone in the Cambridge Police Department of this surveillance prior to its initiation?
 - a. If so, whom?
 - b. If not, why not?
9. Was the surveillance being conducted in Cambridge on either of the Tsarnaev brothers, their associates or people later confirmed to be their acquaintances?

Thank you for your cooperation in this important matter and I look forward to your prompt response. Should you have any questions, please contact Christopher Lucas of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Ranking Member