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ONE HUNDRED SEVENTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
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March 3, 2022

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, DC 20535

Dear Director Wray:

The NSO Group, an Israeli software company, gained widespread notoriety in 2021 after several media organizations published allegations that one of its products—named "Pegasus"—had been used by foreign governments to surveil dissidents, journalists, U.S. officials, and others.[1] Pegasus is a spyware tool that allows an operator to compromise a target's mobile device without requiring any input from the target.[2] After compromising a device, the operator can retrieve data on the device, track the device's location, and commandeer the device's camera and microphone.[3] The Federal Bureau of Investigation has reportedly investigated whether Pegasus has been used against targets within the U.S. in recent years.[4]

As part of the allegations in 2021, media outlets reported that Pegasus was incapable of compromising mobile devices with U.S. phone numbers.[5] However, on January 28, 2022, the *New York Times* reported that the NSO Group has made a version of Pegasus capable of targeting U.S. mobile devices, called "Phantom."[6] This same report alleged that the FBI had acquired access to NSO Group spyware in 2019, tested it, and retains the hardware necessary to use it.[7] The FBI has since acknowledged that it acquired and tested NSO Group spyware.[8]

Although the FBI has stated that it "procured a limited license for product testing and evaluation only" and that "[t]here was no operational use in support of any investigation," the FBI reportedly had an active software license for NSO's spyware for approximately two years

[1] *See, e.g.*, Drew Harwell and Craig Timberg, *NSO Group vows to investigate potential spyware abuse following Pegasus Project investigation*, WASH. POST (Jul. 20, 2021); *see also* Craig Timberg et al., *Pegasus spyware used to hack U.S. diplomats working abroad*, WASH. POST (Dec. 3, 2021).
[2] Timberg et al., *supra* note 1.
[3] *Id.*
[4] *See* Joseph Menn and Jack Stubbs, *Exclusive: FBI proves use of Israeli firm's spyware in personal and government hacks – sources*, REUTERS (Jan. 30, 2020).
[5] *See* Timberg et al., *supra* note 1.
[6] Ronen Bergman and Mark Mazzetti, *The Battle for the World's Most Powerful Cyberweapon*, N.Y. TIMES (Jan. 28, 2022).
[7] *Id.*
[8] Ellen Nakashima, *FBI acknowledges it tested NSO Group's spyware*, WASH. POST (Feb. 2, 2022).

and paid the NSO Group approximately $5 million.[9] During this period, lawyers at the FBI and Department of Justice debated the legality of using Phantom on domestic targets and "NSO engineers were in frequent contact with F.B.I. employees, asking about the various technological details that could change the legal implications of an attack."[10]

In light of the FBI's repeated failure to adhere to safeguards on its use of Foreign Intelligence Surveillance Act authorities,[11] and the FBI's spying on protected First Amendment activities during the campaign of President Donald Trump, the FBI acquiring yet another tool to spy on Americans is deeply troubling and presents significant risks to the civil liberties of U.S. persons. To assist the Committee in conducting oversight of the FBI's acquisition, testing, and use of NSO Group spyware, please provide the following documents and information:

1. All documents and communications between or among the FBI and the NSO Group, Westbridge Technologies, or any other NSO Group affiliate or subsidiary referring or relating to the FBI's acquisition, testing, or use of NSO Group spyware;

2. All documents and communications referring or relating to the FBI's decision to acquire NSO Group spyware; and

3. All documents and communications referring or relating to the FBI's or Justice Department's assessment of the legality of using Phantom against domestic targets.

Please provide this information as soon as possible but not later than 5:00 p.m. on March 17, 2022. To the extent a complete response to this inquiry requires the provision of classified information, please do so under separate cover.

If you have any questions about this request, please contact Judiciary Committee staff at (202) 225-6906. Thank you for your prompt attention to this matter.

Sincerely,

Jim Jordan
Ranking Member

Mike Johnson
Ranking Member
Subcommittee on the Constitution,
Civil Rights, and Civil Liberties

cc: The Honorable Jerrold Nadler, Chairman
The Honorable Steve Cohen, Chairman, Subcommittee on the Constitution, Civil Rights and Civil Liberties

[9] *Id.*; Bergman and Mazzetti, *supra* note 5.
[10] Bergman and Mazzetti, *supra* note 6.
[11] *See, e.g.*, Letter from Jim Jordan, Ranking Member, H. Comm. on the Judiciary, and Mike Johnson, Ranking Member, Subcommittee on the Constitution, Civil Rights, and Civil Liberties of the H. Comm. on the Judiciary, to The Honorable Christopher A. Wray, Director, Federal Bureau of Investigation (Jan. 27, 2022).