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House of Representatives
Washington, DC 20515-2109

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October 1, 2013

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Issa:

I am again writing to respectfully request that the Committee on Oversight and Government Reform (“Committee”) conduct an oversight hearing to examine the use of confidential informants by the Department of Justice (“DOJ”) and in particular, the Federal Bureau of Investigation (“FBI”). As you may recall, I previously submitted two hearing request letters on this important topic in August of 2011 and June of 2013.¹

During the 112th Congress and joined by Ranking Member Elijah E. Cummings and Sen. Charles E. Grassley, we commenced a yearlong investigation into reports surrounding the relationship between the FBI Boston Division and Mark Rossetti, an individual who managed a widespread criminal enterprise in New England and engaged in other illegal activity while also allegedly operating as a human source in the FBI’s confidential informant program. As you know, our investigation facilitated an internal review of the FBI’s Rossetti case files by an FBI inspection team deployed to Boston in 2011, confirmed Mr. Rossetti’s previous status as an FBI confidential informant for several years, and culminated in the completion of a draft report by the FBI Inspection Division regarding the FBI’s operation of Mr. Rossetti as a confidential human source and his engagement in unauthorized illegal activity. Regrettably, however, many of our concerns regarding accountability and transparency in the use of confidential informants by the FBI have not been addressed given that the draft report, which our staff had the opportunity to review at FBI Headquarters in August of 2012 and included several recommendations to enhance confidential informant oversight, has not yet been finalized by DOJ.

¹ Hearing Request Letter from Rep. Stephen F. Lynch to Chairman Darrell Issa (Aug. 19, 2011); Hearing Request Letter from Rep. Stephen F. Lynch to Chairman Darrell Issa (June 6, 2013).

Accordingly, a hearing to examine the use of confidential human sources by DOJ and specifically, the FBI, would serve to determine whether any critical lapses in the administration and operation of confidential informants by our federal law enforcement agencies remain. Additionally, such a hearing could assess the effectiveness of and the extent of current FBI compliance with *The Attorney General's Guidelines Regarding the Use of FBI Confidential Human Sources* as well as identify additional measures that could be implemented to safeguard against waste, fraud, and abuse in our federal law enforcement confidential human source programs.² Moreover, in light of recent reports indicating continuing lapses in the selection and management of confidential informants by the FBI, such a hearing would also be extremely timely and appropriate.

As recently reported by *USA Today* and set forth in a January 2012 annual *Federal Bureau of Investigation Annual Otherwise Illegal Activity Report* obtained by the newspaper under the *Freedom of Information Act*, the FBI authorized its confidential informants to commit at least 5,658 crimes for calendar year 2011 at an average of more than 15 authorized crimes per day.³ Importantly, this annual report does not include any information regarding the precise nature and severity of the crimes authorized by FBI agents nor does it account for any known confidential informant crimes that may have been unauthorized. In addition, the FBI is not currently required to provide these annual reports to Congress but rather, per the *Attorney General's Guidelines Regarding the Use of FBI Confidential Human Sources*, must simply report "to the Assistant Attorneys General of the Criminal Division and the National Security Division the total number of times each FBI Field office authorized a Confidential Human Source to engage in Otherwise Illegal Activity, and the overall nationwide totals."⁴

A hearing to examine the use of confidential informants by DOJ and the FBI would also build upon the prior and substantive work of the Committee in this area. As you will recall, the Committee held a series of hearings in the 107th [Chairman Burton (R-IN)] and 108th [Chairman Davis (R-VA)] Congresses to examine the misuse of confidential informants by the FBI in New England dating back to 1964.⁵ In particular, the Committee's investigation revealed a detailed and disturbing history of corruption by the FBI in its use of confidential informants, including the development of improper relationships between FBI agents and their human sources, the use of informant-provided false evidence to prosecute innocent persons, and the failure to report criminal activity, such as murder, committed by confidential informants with FBI assistance.⁶

² *The Attorney General's Guidelines Regarding the Use of FBI Confidential Human Sources* (online at <http://www.justice.gov/oip/docs/ag-guidelines-use-of-fbi-chs.pdf>).

³ *Exclusive: FBI Allowed Informants to Commit 5,600 Crimes*, USA Today (August 4, 2013) (online at <http://www.usatoday.com/story/news/nation/2013/08/04/fbi-informant-crimes-report/2613305/>) and *Federal Bureau of Investigation Annual Otherwise Illegal Activity Report* (online at <http://www.documentcloud.org/documents/742049-fbi-oia-report.html>).

⁴ *Supra* note 2.

⁵ *Everything Secret Degenerates: The FBI's Use of Murderers as Informants, Vols. 1 & 2*, Congressional Reports: H. Rpt. 108-414 (online at <http://www.gpoaccess.gov/serialset/creports/everything-secret.html>).

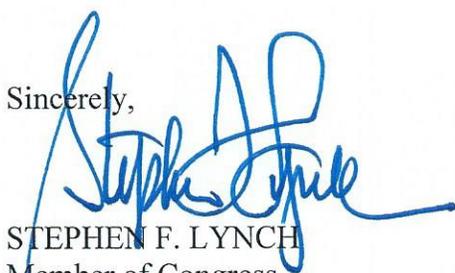
⁶ *Id.*

In light of these and other revelations and at the urging of the Committee, DOJ undertook a variety of efforts designed to address the dangerous problems in its confidential informant programs.⁷ Among other reforms, the FBI implemented new training and validation requirements, instituted human source coordinators in each FBI field office, and established on-site program assessments and inspections.⁸ Ultimately, in May of 2002 and again in December of 2006, the Attorney General approved revisions to *The Attorney General's Guidelines Regarding the Use of FBI Confidential Human Sources*.⁹ However, as evidenced by the case of Mark Rossetti and reports concerning the FBI's continued use of confidential informants without proper oversight, the FBI and DOJ are still facing significant challenges in the use of confidential human sources that must be further addressed.

Towards this end, I believe that continued Congressional oversight of the administration and operation of confidential informants by the DOJ and the FBI would better safeguard the public and limit the potential for abuse of the confidential informant program.

Thank you for your consideration. If you have any questions regarding this letter, please feel free to contact Bruce Fernandez of my staff at Bruce.Fernandez@mail.house.gov or X58273.

Sincerely,



STEPHEN F. LYNCH
Member of Congress

⁷ *Id.*

⁸ *Id.*

⁹ *Supra* note 3.