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FBI Failing to Back Up Claims in FISA Requests, Says Inspector General

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A review of the Federal Bureau of Investigation's (FBI) applications for Foreign Intelligence Surveillance Act (FISA) warrants shows the agency is failing to provide required documentation corroborating its claims in the requests, according to a new report from the Justice Department's Office of the Inspector General (OIG).



The report, in the form of a [memorandum to FBI Director Christopher Wray](#), says OIG decided to undertake the review as a result of its probe into the FBI's requests for FISA warrants to spy on President Donald Trump's former campaign aide Carter Page. That [investigation](#), completed in December, uncovered "significant inaccuracies and omissions" in every application to the Foreign Intelligence Surveillance Court (FISC) concerning Page. Two of the applications were so inaccurate that the Justice Department deemed them invalid.

For its latest report, released Monday, OIG reviewed a sample of 29 FISA applications from eight FBI field offices to determine if the applications contained documentation to back up the assertions made in them. OIG says the FBI instituted the policy of requiring this documentation, known as a Woods File, in 2001 after the agency was found to have committed "errors in numerous FISA applications." The policy, called Woods Procedures, has two "stated purposes," wrote OIG: "to minimize factual inaccuracies in FISA applications and to ensure that statements contained in applications are 'scrupulously accurate.'" The case agent requesting the warrant must supply the Woods File and sign a form attesting to having done so; his supervisory special agent is also required to sign the form to indicate that he has reviewed the Woods File.

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Of the 29 FISA applications OIG reviewed, four had no Woods File at all. For some, the FBI was unable to locate the file. For others, noted OIG, "FBI personnel suggested a Woods File was not completed."

"Additionally," penned OIG,

for all 25 FISA applications with Woods Files that we have reviewed to date, we identified facts stated in the FISA application that were: (a) not supported by any documentation in the Woods File, (b) not clearly corroborated by the supporting documentation in the Woods File, or (c) inconsistent



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with the supporting documentation in the Woods File. While our review of these issues and follow-up with case agents is still ongoing ... at this time we have identified an average of about 20 issues per application reviewed, with a high of approximately 65 issues in one application and less than 5 issues in another application.

OIG also found that these errors are being carried over to requests to renew FISA warrants. When requesting a renewal, case agents are supposed to re-verify all statements of fact repeated from the original FISA application, but that is clearly not happening. In fact, case agents told OIG that they only verify new statements, a “practice [that] directly contradicts FBI policy,” observed OIG.

OIG stressed that they had not determined whether any of the errors were “material” or “would have influenced the decision to file the application or FISC’s decision to approve the FISA application.” Still, they concluded, “We do not have confidence that the FBI has executed its Woods Procedures in compliance with FBI policy,” which they say “undermines the FBI’s ability to achieve its ‘scrupulously accurate’ standard for FISA applications.”

Furthermore, OIG contends that the FBI had the tools at its disposal to have recognized and corrected the problem long ago but failed to do so. One of those tools, the annual FISA application accuracy review report, “routinely identified deficiencies in documentation supporting FISA applications.” Specifically, it identified a total of roughly 390 issues across just 39 applications, “including unverified, inaccurate, or inadequately supported facts, as well as typographical errors.”

“We believe that the FBI’s comprehensive, strategic examination of the results of these reviews would have put the FBI on notice that the Woods Procedures were not consistently executed thoroughly and rigorously,” stated OIG.

OIG recommended that the FBI use the accuracy review reports to determine whether Woods Procedures are being followed and review all FISA applications in pending investigations to make sure their Woods Files are complete. In reply, the FBI accepted the recommendations and said it was already implementing some form of them in response to the December OIG report.

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Michael Tennant is a freelance writer and regular contributor to The New American.



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