



OFFICE OF THE INSPECTOR GENERAL

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DOJ OIG Releases Report on FBI's Impersonation of a Journalist in a Criminal Investigation

The Department of Justice (DOJ) Office of the Inspector General (OIG) announced today the release of a report examining the Federal Bureau of Investigation's (FBI) impersonation of a journalist in a 2007 undercover criminal investigation and whether the actions violated FBI policies.

Today's report from the DOJ OIG details how an FBI agent posed as a fictitious editor working for the Associated Press (AP) in order to locate and identify a suspect who anonymously emailed a series of bomb threats causing multiple evacuations of Timberline High School, near Seattle, Washington. The operation successfully located the suspect, a 15-year-old high school student, after he clicked on a link to a photograph emailed by the fictitious AP editor, triggering a hidden software program that disclosed the student's location to the FBI.

The FBI became involved after local law enforcement officials, who were unable to identify or locate the suspect, requested assistance from a cybercrime task force supervised by the FBI's Seattle Field Division. At the time of the student's arrest on June 14, 2007, the FBI did not publicize the assistance its agents provided local law enforcement. However, on July 18, 2007, two days after the student pleaded guilty, an online technology news website published an article that detailed the method by which the FBI identified the student.

Seven years later, in October 2014, *The Seattle Times* published an article, based upon e-mails obtained by the Electronic Frontier Foundation through a Freedom of Information Act request, disclosing that an FBI employee posed as a member of the news media when it contacted and then identified the student. Later that same month, the AP sent a letter to then-Attorney General Eric Holder protesting the FBI's impersonation of a member of the news media in connection with the Bureau's investigation. In addition, several newspapers wrote articles questioning the tactics the FBI used to identify and arrest the subject who sent the threats.

The OIG initiated this review to examine whether under DOJ and FBI policies in effect at the time of the 2007 investigation, agents obtained the appropriate approval for the undercover activities used in this investigation. The report also examines whether the undercover activities in 2007 would require a higher level of approval if conducted today under current DOJ and FBI policies.

As described in our report, we concluded that the FBI's policies in 2007 did not expressly address the tactic of agents impersonating journalists. We further found that the FBI's undercover policies then in effect provided some relevant guidance, but were less than clear. As a result, we believe that the judgments agents made about aspects of the planned undercover activity in 2007 to pose as an editor for the AP did not violate the undercover policies in place at the time. We also determined that once the undercover plan was launched, the undercover agent included representations in his communications with the subject that could have increased the level of approval required under FBI policy, a possibility the investigative team did not appear to fully consider.

The report also explains how in June 2016, as the OIG was finalizing its report, the FBI adopted a much more strict interim policy that makes it clear that FBI agents are prohibited from impersonating journalists unless they obtain a series of special approvals. In order for such a tactic to be authorized under the new policy, agents are required to submit an undercover operation application that must first be approved by the head of the local FBI field office, then reviewed by the Undercover Review Committee at FBI Headquarters, and finally approved by the FBI's Deputy Director, after consultation with the Deputy Attorney General.

The OIG report describes the FBI's new interim policy as a significant improvement to policies that existed in 2007 during the Timberline investigation, as well as to those policies that would have governed similar undercover activities prior to June 2016. The report also finds that the FBI's new interim policy is an important extension of policies the DOJ previously implemented to regulate certain law enforcement activities that affect members of the news media, such as obtaining information from, or about, members of the news media in criminal and civil investigations.

Today's report makes 3 recommendations, including that the FBI move expeditiously to update its undercover policy guide to incorporate its new interim policy, and widely inform and educate FBI employees about the policy's existence and application. FBI agreed with all three recommendations.

Report: Today's report is available on the OIG's website at the following link:

<https://oig.justice.gov/reports/2016/o1607.pdf>.

Video: To accompany today's report, the OIG has released a 3-minute video featuring the Inspector General summarizing the report's findings. The video and a downloadable transcript are available at the following link: <https://oig.justice.gov/multimedia/>.