

United States Senate
WASHINGTON, DC 20510

September 28, 2022

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
Department of Justice

The Honorable Christopher Wray
Director
Federal Bureau of Investigation

Dear Attorney General Garland and Director Wray:

We are writing to you after learning about the FBI's September 23, 2022, execution of an arrest warrant on pro-life speaker, Mark Houck, for alleged violations of the Freedom of Access to Clinic Entrances Act (FACE Act). The arrest warrant appears to be based on an altercation that occurred on October 13, 2021. Based on allegations made to Senator Grassley's office, that October 13, 2021, incident involved an abortion clinic worker who allegedly shouted obscenities at Mr. Houck's 11 year old son and invaded his personal space, refusing to leave him alone, to which Mr. Houck allegedly pushed the individual away from his son. After the incident, it's been alleged by Mr. Houck's attorney for the matter, John Williamson, that the Philadelphia police department declined to make an arrest and prosecute. However, the clinic worker filed a criminal complaint against Houck which, according to allegations, was dismissed after the clinic worker failed to appear at least two times for the scheduled trial. Mr. Williamson has informed the committee that during the prosecution, the District Attorney suggested to settle the matter as a civil case instead of criminal; however, the alleged victim didn't agree and the matter continued.

After the complaint against Mr. Houck was dismissed on April 22, 2022, he received a letter from the Justice Department on April 27, 2022, advising that he was under investigation for potential violations of the FACE Act. Mr. Houck retained an attorney, Matt Heffron, who is a former federal prosecutor. Mr. Heffron informed the committee that he communicated to Assistant U.S. Attorney Anita Eve twice via phone and left voice messages after she didn't pick up. After not receiving a return call, Mr. Heffron emailed Ms. Eve to note that he left voice messages on May 21, 2022, and June 7, 2022, and said in his email that if the Department intended to indict Mr. Houck, he would receive the summons on Mr. Houck's behalf and that he would appear voluntarily. According to Mr. Heffron, Ms. Eve did not respond. Mr. Heffron

made clear to the committee that he and Mr. Houck were cooperative with the Justice Department; however, in return the Justice Department failed to communicate with them.

Given their cooperation with federal law enforcement, the family did not expect to be awakened at 7 a.m. with reportedly over 20 FBI agents surrounding their home wearing armor plated tactical vests, ballistic helmets and holding ballistic shields and long guns.¹ Mrs. Houck reportedly stated that “[t]hey said they were going to break in if [my husband] didn't open [the door]. And then they had about five guns pointed at my husband, myself, and basically at my kids.”² Based on allegations, when Mr. Houck opened the door he was handcuffed and arrested. Mr. Houck allegedly asked his wife for his rosary and a sweatshirt before being transported to jail.

On May 20, 2022, Attorney General Merrick Garland sent a memorandum to Justice Department employees with respect to the Department’s use of force policy. Under the title of de-escalation, the memo states, “Officers will be trained in de-escalation tactics and techniques designed to gain voluntary compliance from a subject before using force, and such tactics and techniques should be employed if objectively feasible and they would not increase the danger to the officer or others. When feasible, reducing the need for force allows officers to secure their own safety as well as the safety of the public.”³

As noted, according to Mr. Heffron, he was cooperative with the government. Moreover, Mr. Heffron and Mr. Williamson noted to the committee that Ms. Eve recommended a “Return on own Recognizance” bond meaning Mr. Houck was free to leave without having to post bail. This indicates that the government did not view Mr. Houck as a threat to the community, which calls into question why heavily armed FBI agents were needed to arrest him in the first place.

Based on reports and allegations, the actions taken by the FBI reasonably call into question whether they complied with DOJ’s use of force policy. The FBI must explain their justification for their actions on September 23, 2022.

Lastly, we’ve obtained photos of the aftermath of the FBI agents’ raid on the Houck home. Mrs. Houck stated that these photos were taken following the departure of her husband and the main FBI agents; however, a few FBI agents remained to give her a copy of the arrest warrant. The photograph shows an agent with a ballistic shield and long gun. Based on allegations, other FBI agents had a battering ram and ballistic shields. The photo and the

¹ See Emma Colton and Brianna Herlihy, *FBI arrest of Pennsylvania pro-life activist an attack on 'pro-life Christians,' spox says*, FOX NEWS (Sep. 27, 2022 at 4:14 PM), <https://www.msn.com/en-us/news/us/fbi-arrest-of-pennsylvania-pro-life-activist-an-attack-on-pro-life-christians-spox-says/ar-AA12grn>.

² Joe Bukuras, *Founder of Catholic apostolate for men charged with assaulting Planned Parenthood abortion clinic escort*, CATHOLIC NEWS AGENCY (Sept 23, 2022), <https://www.catholicnewsagency.com/news/252380/founder-of-catholic-apostolate-for-men-charged-with-assaulting-planned-parenthood-abortion-clinic-escort>.

³ U.S. DEPARTMENT OF JUSTICE, POLICY ON USE OF FORCE (2022), <https://www.justice.gov/ag/page/file/1507826/download#:~:text=Officers%20may%20use%20force%20only,the%20same%20or%20similar%20circumstances>.

allegations received by the committee appear to contradict the FBI's statement that they employed "standard practices" against Mr. Houck.⁴



This extraordinary fact pattern requires additional information from the Justice Department and the FBI relating to why Mr. Houck was not allowed to self-report for his arrest and arraignment and whether political considerations were made to approve and execute the search warrant. In order for Congress to perform an independent and objective review of this matter, no later than October 12, 2022, please provide answers to the following questions.

1. Why did the Justice Department wait 11 months after the October 2021 incident to indict Mr. Houck?
2. Please provide a list of Justice Department and FBI officials who approved the decision to open a grand jury investigation into Mr. Houck after the state criminal complaint had already been dismissed.
3. Please provide a list of Justice Department and FBI officials who approved the execution of the arrest warrant for Mr. Houck.
4. How many law enforcement personnel did the FBI use in executing the arrest warrant?
5. In light of Mr. Houck's alleged cooperation with federal authorities, what factors led to the Justice Department and FBI executing an arrest warrant against him instead of using less aggressive tactics, including a summons to appear? Please explain how the execution of the search warrant complied with Attorney General Garland's use of force memorandum.

⁴ Jo Ciavaglia, *FBI denies anti-abortion activist's claims that SWAT force was used in Bucks County arrest*, BUCKS COUNTY COURIER TIMES (Sep. 26, 2022 at 5:38 PM), <https://www.buckscountycouriertimes.com/story/news/local/2022/09/26/fbi-denies-excessive-force-in-anti-abortion-arrest-in-pa-mark-houck/69520181007/>.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary



Lindsey O. Graham
U.S. Senator



John Cornyn
U.S. Senator



Mike Lee
U.S. Senator



Ted Cruz
U.S. Senator



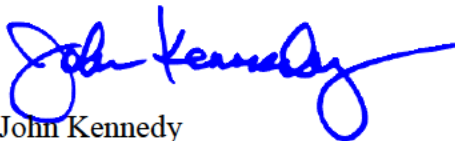
Ben Sasse
U.S. Senator



Josh Hawley
U.S. Senator



Tom Cotton
U.S. Senator



John Kennedy
U.S. Senator



Thom Tillis
U.S. Senator



Marsha Blackburn
U.S. Senator



Pat Toomey
U.S. Senator