

NOW WOULD BE A GOOD TIME TO RESTORE STATUTORY AUTHORITY OF DOJ'S INSPECTOR GENERAL

Judd Legum reports that the FBI's Inspection Division is launching an investigation into why its FBI Records Vault Twitter bot launched into action the other day, resulting in the re-release of FOIAed files on Bill Clinton's pardon of Marc Rich.

Candice Will, Assistant Director for the FBI's Office of Professional Responsibility, said she was referring the matter to the FBI's Inspection Division for an "investigation." Upon completion of the investigation, the Office of Professional Responsibility will be referred back to the Office of Professional Responsibility for "adjudication."

Federal law and FBI policy prohibit employees from using the power of the department to attempt to influence elections.

Will was responding to a complaint from Jonathan Hutson, a former investigative reporter who now works in communication in Washington, DC. She did not respond to requests, via phone and email, for further comment.

I'm happy the FBI is conducting this investigation, but this story is the inevitable result of the FBI responding appropriately to a complaint submitted by a media consultant, not any indication anyone at the FBI takes its own misconduct seriously.

Plus, the Inspection Division and the Office of Professional Responsibility don't have statutory independence from the rest of the FBI, which means their investigation (and particularly OPR's adjudication) can be influenced by FBI executives.

The entity that should be conducting an investigation into the FBI's misconduct relating to this election is the Inspector General, which does have the independence to really assess who, if anyone screwed up.

There's just one problem with that. As I've long covered, in 2010, the FBI started balking at the Inspector General's proper investigative demands. Among other things, the FBI refused to provide information on grand jury investigations unless some top official in FBI said that it would help the FBI if the IG obtained it. In addition, the FBI (and DEA) have responded to requests very selectively, pulling investigations they don't want to be reviewed. In 2014, the IG asked OLC for a memo on whether it should be able to get the information it needs to do its job. Last year, OLC basically responded, Nope, can't have the stuff you need to exercise proper oversight of the FBI.

DOJ's Inspector General, Michael Horowitz, has been trying for some time to get Congress to affirmatively authorize his office (and IGs generally, because the problem exists at other agencies) to receive the information he needs to do his job. But thus far – probably because Jim Comey used to be known as the world's biggest Boy Scout – Congress has failed to do so.

I care about how FBI's misconduct affects the election (thus far, polling suggests it hasn't done so, though polls are getting closer as Republican Gary Johnson supporters move back to supporting the GOP nominee, as almost always happens with third party candidates). But I care even more about how fucked up the FBI is. Even if Comey is ousted, I can't think of a likely candidate that could actually fix the problems at FBI. One of the few entities that I think

might be able to do something about the stench
at FBI is the IG.

Except the FBI has spent 6 years making sure the
IG can't fully review its conduct.

It's time to fix that.