

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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March 14, 2022

The Honorable Daniel W. Lucas
Inspector General
Office of the Inspector General
717 14th Street, NW, 5th Floor
Washington, D.C. 20005

Inspector General Lucas:

Committee on Oversight and Reform Republicans are concerned about District of Columbia (D.C.) government employees allegedly sending internal communications using cross-platform encrypted instant messaging services such as WhatsApp.¹ Mayor Muriel Bowser and D.C. employees are reportedly using this software to circumvent the preservation of records and District of Columbia Freedom of Information Act (FOIA) requests.² As such, we request the D.C. Office of the Inspector General conduct a review of these practices to learn what extent Mayor Bowser and D.C. employees are skirting public records laws.

According to *Axios News*, Mayor Bowser, top aides, and high-level staff throughout the D.C. government are using WhatsApp or similar platforms to conduct D.C. business or communicate about official matters.³ Messages sent by city employees through private text messaging services like WhatsApp are not necessarily preserved and cannot be searched for to respond to corresponding FOIA requests and other legal demands. This is in direct violation of FOIA requirements.⁴

This problem is not new and has affected all levels of the D.C. government. Since 2019, *WAMU* has reported on the Mayor's office using WhatsApp, which was characterized as a "flagrant effort to avoid public disclosure."⁵ This followed an episode in 2012 in which the D.C. Council refused to turn over correspondence conducted via personal email accounts.⁶ Last year, the *Washington Post* filed a FOIA lawsuit to recover public records, including Mayor Bowser's

¹ Cuneyt Dil, *D.C. mayor's WhatsApp dodge: App sparks records concerns*, AXIOS (Feb. 15, 2022).

² *Id.*

³ Cuneyt Dil, *D.C. mayor's WhatsApp use spurs stronger public records law*, AXIOS (Mar. 1, 2022).

⁴ D.C. Code § 2-1706.

⁵ Martin Auster Muhle, *D.C. Officials Using WhatsApp For City Business May Skirt Open Records Laws*, WAMU (Oct. 9, 2019).

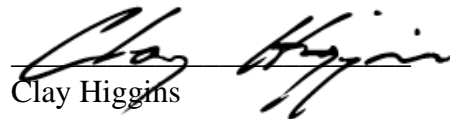
⁶ *Id.*

email and WhatsApp messages.⁷ The litigation is ongoing, but in January 2022 the D.C. Superior Court found that the District did not properly search Mayor Bowser’s WhatsApp account for messages.⁸ The lack of transparency regarding Mayor Bowser’s WhatsApp messages raises questions about why the Mayor is attempting to hide certain communications.

After years of abuses by the D.C. government, on March 1, 2022, the D.C. Council introduced an emergency measure to “regulate government employees’ use of WhatsApp and similar messaging services,” apparently in response to *Axios* reporting on Mayor Bowser’s use of the services.⁹ However, it is unclear if this proposal will remedy the problem. We request that your office conduct an in-depth review of Mayor Bowser and other government officials’ use of WhatsApp and other private text messaging services to conduct business. Please notify Committee Republicans by March 21, 2022 whether you intend to conduct the requested review. We look forward to your response.

The Committee on Oversight and Reform has primary legislative jurisdiction over “[m]unicipal affairs of the District of Columbia in general” pursuant to House Rule X. Additionally, the Committee is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” also under House Rule X.

Respectfully,



Clay Higgins
Member of Congress



James Comer
Ranking Member
Committee on Oversight and Reform



Glenn S. Grothman
Ranking Member
Subcommittee on National Security

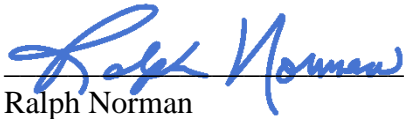


Michael Clourd
Ranking Member
Subcommittee on Economic and
Consumer Policy

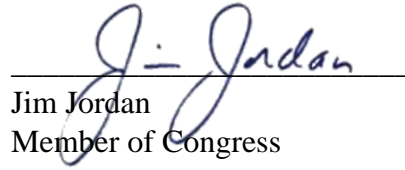
⁷ *WP Company LLC v. The District of Columbia*, Case _____, D.C. Sup. C. (Civ. Div.), Complaint for Declaratory and Injunctive Relief (Jun. 23, 2021), available at <https://www.documentcloud.org/documents/21206789-washington-post-lawsuit-0621?responsive=1&title=1>.

⁸ *WP Company LLC v. The District of Columbia*, Case 2021 CA 002114 B, D.C. Sup. C. (Civ. Div.), Order (Jul. 24, 2022), available at <https://www.documentcloud.org/documents/21206790-order-case-2021ca002114b?responsive=1&title=1>.

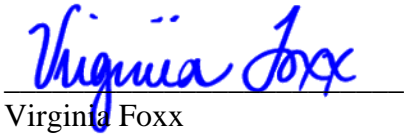
⁹ Michael Brice-Saddler, *D.C. Council approves measure targeting Bowser administration’s use of WhatsApp*, WASH. POST (Mar. 1, 2022).



Ralph Norman
Ranking Member
Subcommittee on Environment



Jim Jordan
Member of Congress



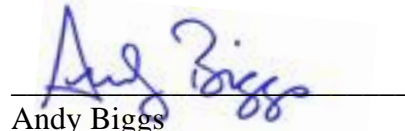
Virginia Foxx
Member of Congress



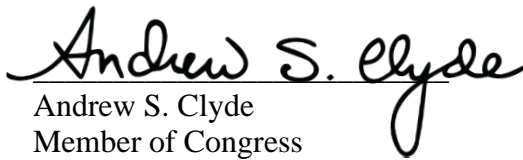
Pete Sessions
Member of Congress



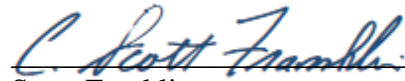
Fred Keller
Member of Congress



Andy Biggs
Member of Congress



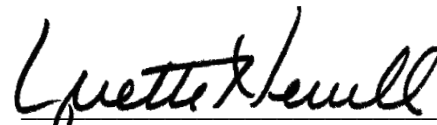
Andrew S. Clyde
Member of Congress



Scott Franklin
Member of Congress



Jake LaTurner
Member of Congress



Yvette Herrell
Member of Congress

cc: The Honorable Carolyn Maloney, Chairwoman
Committee on Oversight and Reform

The Honorable Stephen F. Lynch, Chairman
Subcommittee on National Security

The Honorable Raja Krishnamoorthi, Chairman
Subcommittee on Economic and Consumer Policy

The Honorable Ro Khanna, Chairman
Subcommittee on Environment