Internal Documents Show How Close the F.B.I. Came to Deploying Spyware

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By Mark Mazzetti and Ronen Bergman

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Spyware

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WASHINGTON — During a closed-door session with lawmakers last December, Christopher A. Wray, the director of the F.B.I., was asked whether the bureau had ever purchased and used Pegasus, the hacking tool that penetrates mobile phones and extracts their contents.

Mr. Wray acknowledged that the F.B.I. had bought a license for Pegasus, but only for research and development. "To be able to figure out how bad guys could use it, for example," he told Senator Ron Wyden, Democrat of Oregon, according to a transcript of the hearing that was recently declassified.

But dozens of internal F.B.I. documents and court records tell a different story. The documents, produced in response to a Freedom of Information Act lawsuit brought by The New York Times against the bureau, show that F.B.I. officials made a push in late 2020 and the first half of 2021 to deploy the hacking tools — made by the Israeli spyware firm NSO — in its own criminal investigations. The officials developed advanced plans to brief the bureau's leadership, and drew up guidelines for federal prosecutors about how the F.B.I.'s use of hacking tools would need to be disclosed during criminal proceedings.

It is unclear how the bureau was contemplating using Pegasus, and whether it was considering hacking the phones of American citizens, foreigners or both. In January, The Times revealed that F.B.I. officials had also tested the NSO tool Phantom, a version of Pegasus capable of hacking phones with U.S. numbers.

The F.B.I. eventually decided not to deploy Pegasus in criminal investigations in July 2021, amid a flurry of stories about how the hacking tool had been abused by governments across the globe. But the documents offer a glimpse at how the U.S. government — over two presidential administrations — wrestled with the promise and peril of a powerful cyberweapon. And, despite the F.B.I. decision not to