

United States Senate

WASHINGTON, DC 20510

April 25, 2019

VIA ELECTRONIC TRANSMISSION

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Barr,

During your April 10, 2019, testimony before a Senate Appropriations Subcommittee, you stated that you are looking into the “genesis and conduct of intelligence activities directed at the Trump campaign during 2016.”¹ You further stated that “spying did occur,” and that you believe it is your obligation to look into the question of whether surveillance activities by the Federal Bureau of Investigation (FBI) or other intelligence agencies were adequately predicated.²

We share your concerns about these activities, and are troubled by the apparent unauthorized disclosures of surveillance efforts and other classified information during the same time period. We bring to your attention information that may assist your review.

First, in the course of our oversight work we have reviewed certain text messages that may show potential attempts by the FBI to conduct surveillance of President-elect Trump’s transition team. In text messages exchanged between former FBI Special Agent Peter Strzok and former FBI Attorney Lisa Page, the two discussed the possibility of developing “potential relationships” at a November 2016 FBI briefing for presidential transition team staff. Specifically, it appears they discussed sending “the CI guy” to assess an unnamed person(s) “demeanor” but were concerned because it might be unusual for him to attend. A few weeks after the presidential election, Mr. Strzok and Ms. Page discussed the logistics for the briefing. Mr. Strzok and Ms. Page said the following:

Strzok: Talking with Bill³. Do we want Joe⁴ to go with Evanina⁵ instead of Charlie⁶ for a variety of reasons?

Page: Hmm. Not sure. Would it be unusual to have [sic] show up again?
Maybe another agent from the team?

¹ Gregg Re and Brooke Singman, *Dems rage against Barr for backing claims of Trump campaign ‘spying’ by FBI*, FoxNews (April 10, 2019). Available at <https://www.foxnews.com/politics/dems-rage-against-barr-for-backing-claims-of-trump-campaign-spying-by-fbi>; Nicholas Fandos and Adam Goldman, *Barr Asserts Intelligence Agencies Spied on the Trump Campaign*, The New York Times (April 10, 2019). Available at <https://www.nytimes.com/2019/04/10/us/politics/barr-trump-campaign-spying.html>; Philip Ewing, *Citing ‘Spying’ On Trump, Barr Says He Is Looking Into Origins Of Russia Inquiry*, NPR (April 10, 2019). Available at <https://www.npr.org/2019/04/10/711852861/citing-spying-on-trump-barr-says-he-s-looking-into-origins-of-russia-inquiry>.

² *Id.*

³ “Bill” most likely refers to E.W. Priestap, former Assistant Director of the FBI’s counterintelligence division.

⁴ “Joe” most likely refers to Joe Pientka III, FBI Special Agent.

⁵ “Evanina” most likely refers to William R. Evanina, Director of the National Counterintelligence and Security Center.

⁶ At this time it is unknown who “Charlie” is.

Strzok: Or, he's "the CI guy." Same.might [sic] make sense. He can assess if thete [sic] are **any news [sic] Qs**, or **different demeanor**. If Katie's husband is there, he can see if there are people we can **develop for potential relationships**

Page: Should I ask Andy⁷ about it? Or Bill⁸ want to reach out for andy⁹?

Strzok: I told him I'm sure we could ask you to make the swap if we thought it was smart. It's not until Mon so Bill can always discuss with him tomorrow.¹⁰

The nature of these communications, and the precise purpose of any attempts to "develop relationships" with Trump or Pence transition team staff are not immediately clear. Were these efforts done to gain better communication between the respective parties, or were the briefings used as intelligence gathering operations? Further, did any such surveillance activities continue beyond the inauguration, and in the event they did, were those activities subject to proper predication? Any improper FBI surveillance activities that were conducted before or after the 2016 election must be brought to light and properly addressed.

Additionally, we note that a number of news outlets have reported sensitive information related to the investigation into alleged Russian collusion with the Trump campaign. Those reports have revealed sensitive information focusing on the FBI sending informants to meet with Trump advisors; a warrant to surveil Carter Page; and the United Kingdom signal intelligence agency briefing former CIA Director John Brennan on alleged communications between Trump's campaign and Russian officials, among other things.¹¹ Notably, the Justice Department Inspector General's review of the Clinton investigation found "profound concerns about the volume and extent of unauthorized media contacts by FBI personnel..."¹² It appears the same happened during the Russia investigation. Leaks to the media about ongoing investigations undermine the ability of investigators to properly investigate. Moreover, sensitive leaks to the media while members of congress performing constitutionally mandated oversight are kept in the dark is unacceptable.¹³

Accordingly, please contact our staff to schedule a briefing and answer the following no later than May 9, 2019:

⁷ "Andy" most likely refers to Andrew McCabe, former Deputy Director of the FBI.

⁸ "Bill" most likely refers to E.W. Priestap, former Assistant Director of the FBI's counterintelligence division.

⁹ "Andy" most likely refers to Andrew McCabe, former Deputy Director of the FBI.

¹⁰ November 17, 2016, Strzok-Page Texts Part 2, p. 159, DOJ-PROD-0000325. Emphasis added.

¹¹ Eli Lake, *Focus on the Leaking, Not Just the Spying*, Bloomberg Opinion (April 11, 2019). Available at <https://www.bloomberg.com/opinion/articles/2019-04-11/spying-did-occur-but-barr-should-also-focus-on-the-leaking>.

¹² A Review of Various Actions by the Federal Bureau of Investigation and Department of Justice in Advance of the 2016 Election at 429 (June 14, 2018). Available at <https://www.justice.gov/file/1071991/download>.

¹³ For example, former Deputy Director McCabe was fired for making unauthorized disclosures to the media regarding the FBI's investigation into the Clinton Foundation and then lying about it. In addition, transcripts of former National Security Advisor Michael Flynn's phone calls with Russian Ambassador to the U.S., Sergey Kislyak, were leaked. On February 15, 2017, the Judiciary Committee requested information from the Justice Department and FBI relating to that leaked information. On March 15, 2017, the FBI provided a briefing about the FBI's Russia investigation which answered a few of the questions posed by the Committee, but most were not.

1. Please describe the nature and extent of your review of FBI surveillance of the Trump Campaign, President-elect Trump's transition staff, Vice President-elect Pence's transition staff, President Trump's staff, and Vice President Pence's staff, including your efforts to determine whether that surveillance was adequately predicated.
2. How many counter-intelligence briefings were provided to the Trump and Pence transition staffs prior to Inauguration Day? Please list the dates, all agencies involved, and each official that represented those agencies at the briefings.
3. Many of the FBI employees involved in these activities are no longer employed by the federal government. How will your review obtain information needed from these individuals?
4. Will you commit to providing the results of your review once completed?
5. What steps have you taken to investigate whether DOJ or FBI officials had unauthorized contacts with the media during the Russia investigation?

We anticipate that your written reply and most responsive documents will be unclassified. Please send all unclassified material directly to each Committee. In keeping with the requirements of Executive Order 13526, if any of the responsive documents do contain classified information, please segregate all unclassified material within the classified documents, provide all unclassified information directly to each Committee, and provide a classified addendum to the Office of Senate Security. Although our Committees comply with all laws and regulations governing the handling of classified information, they are not bound, absent prior agreement, by any handling restrictions.

Should you have any questions, please contact Joshua Flynn-Brown of Chairman Grassley's Finance Committee staff at (202) 224-4515 or Brian Downey of Chairman Johnson's Homeland Security and Governmental Affairs Committee staff at (202) 224-4751.

Sincerely,



Charles E. Grassley
Chairman
Senate Finance Committee



Ron Johnson
Chairman
Senate Committee on Homeland
Security and Governmental Affairs

THE WHITE HOUSE

WASHINGTON

May 23, 2019

MEMORANDUM FOR THE SECRETARY OF STATE
THE SECRETARY OF THE TREASURY
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
THE SECRETARY OF ENERGY
THE SECRETARY OF HOMELAND SECURITY
THE DIRECTOR OF NATIONAL INTELLIGENCE
THE DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

SUBJECT: Agency Cooperation with Attorney General's Review
of Intelligence Activities Relating to the 2016
Presidential Campaigns

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

Section 1. Agency Cooperation. The Attorney General is currently conducting a review of intelligence activities relating to the campaigns in the 2016 Presidential election and certain related matters. The heads of elements of the intelligence community, as defined in 50 U.S.C. 3003(4), and the heads of each department or agency that includes an element of the intelligence community shall promptly provide such assistance and information as the Attorney General may request in connection with that review.

Sec. 2. Declassification and Downgrading. With respect to any matter classified under Executive Order 13526 of December 29, 2009 (Classified National Security Information), the Attorney General may, by applying the standard set forth in either section 3.1(a) or section 3.1(d) of Executive Order 13526, declassify, downgrade, or direct the declassification or downgrading of information or intelligence that relates to the Attorney General's review referred to in section 1 of this memorandum. Before exercising this authority, the Attorney General should, to the extent he deems it practicable, consult with the head of the originating intelligence community element or department. This authority is not delegable and applies notwithstanding any other authorization or limitation set forth in Executive Order 13526.

Sec. 3. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

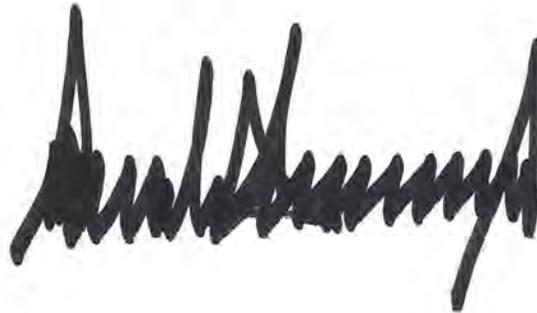
- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) The authority in this memorandum shall terminate upon a vacancy in the office of Attorney General, unless expressly extended by the President.

(d) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(e) The Attorney General is authorized and directed to publish this memorandum in the *Federal Register*.

A large, dark, handwritten signature in black ink, appearing to be a stylized name, possibly "Donald Trump", written in a cursive script.



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 12, 2019

The Honorable Adam Schiff
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, DC 20515

Re: DOJ Review of Intelligence Activities

Dear Chairman Schiff:

This letter responds to your request for information relating to a review currently being conducted by the U.S. Department of Justice (Department) into certain activities involving the campaigns in the 2016 U.S. presidential election and certain related matters (Review). The Review is broad in scope and multifaceted, and is intended to illuminate open questions regarding the activities of U.S. and foreign intelligence services as well as non-governmental organizations and individuals.

It is now well established that, in 2016, the U.S. government and others undertook certain intelligence-gathering and investigative steps directed at persons associated with the Trump Campaign. As the Attorney General has stated publicly at congressional hearings and elsewhere, there remain open questions relating to the origins of this counter-intelligence investigation and the U.S. and foreign intelligence activities that took place prior to and during that investigation. The purpose of the Review is to more fully understand the efficacy and propriety of those steps and to answer, to the satisfaction of the Attorney General, those open questions. Among other things, the Review will seek to determine whether the investigation complied with applicable policies and laws. Accordingly, the Attorney General has directed that a team (Review Team) led by John Durham, the United States Attorney for the District of Connecticut, conduct the Review in order to better understand the activities leading up to and relating to the counter-intelligence investigation.

On May 24, 2019, the President issued a memorandum concerning the Review, which directed that “[t]he heads of elements of the intelligence community . . . and the heads of each department or agency that includes an element of the intelligence community shall promptly provide such assistance and information as the Attorney General may request in connection with

that review.” As the Attorney General has stated publicly, he has consulted and is working in close coordination with other members of the U.S. intelligence community in conducting the Review. The Review is thus a collaborative, ongoing effort between the Department’s Review Team and the intelligence community as well as certain foreign actors.

In furtherance of the Review, and to ensure that it proceeds in an efficient and effective manner, the Review Team has requested that certain intelligence community agencies: (1) preserve all relevant records, (2) ensure the availability of witnesses that may be pertinent to the Review, and (3) begin identifying and assembling materials that may be relevant to the Review, consistent with the President’s memorandum and federal law. These requests inevitably relate to sensitive information in the possession of the intelligence community. While the Attorney General has been granted the authority to declassify information in connection with the Review, it is of great importance to the Department to protect classified information by preventing the unwarranted disclosure of sensitive sources, methods, techniques and materials where such disclosure would endanger the personal safety of U.S. government employees or friendly foreign partners, harm U.S. national security interests, or compromise the ability of U.S. government agencies to conduct their important work to protect the American people. The Attorney General greatly appreciates the work of the women and men serving in the U.S. intelligence community in carrying out their mission, as well as the assistance that our foreign intelligence partners often provide, and has therefore directed the Review Team to work closely with the intelligence community to ensure that national security equities of the U.S. and its foreign intelligence partners are adequately protected in the course of the Review.

During the Review, Mr. Durham will continue to serve as U.S. Attorney for the District of Connecticut. The Review is being conducted primarily in the Washington, D.C. area by Mr. Durham and a number of U.S. Attorney’s Office personnel and other Department employees. The Department has made existing office space in Washington available for this work. Mr. Durham’s Review will be funded out of the U.S. Attorneys Salaries and Expenses appropriation.

The Attorney General looks forward to obtaining a better understanding of the critical period leading up to the 2016 presidential election, which to date has not fully been examined. As the U.S. approaches another election season, it would be most prudent to timely draw upon the lessons learned from our recent history, and to apply them responsibly and effectively to protect the interests of the American people, within the bounds of sound judgment and the rule of law. We appreciate your support to that end.

The Honorable Adam Schiff
Page Three

Please do not hesitate to contact this office if you have any additional questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to be 'SEB', written over the word 'Sincerely,'.

Stephen E. Boyd
Assistant Attorney General

cc: The Honorable Devin Nunes
Ranking Member



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 10, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Re: DOJ Review of Intelligence Activities

Dear Chairman Nadler:

This letter responds to your request for information relating to a review currently being conducted by the U.S. Department of Justice (Department) into certain activities involving the campaigns in the 2016 U.S. presidential election and certain related matters (Review). The Review is broad in scope and multifaceted, and is intended to illuminate open questions regarding the activities of U.S. and foreign intelligence services as well as non-governmental organizations and individuals.

It is now well established that, in 2016, the U.S. government and others undertook certain intelligence-gathering and investigative steps directed at persons associated with the Trump Campaign. As the Attorney General has stated publicly at congressional hearings and elsewhere, there remain open questions relating to the origins of this counter-intelligence investigation and the U.S. and foreign intelligence activities that took place prior to and during that investigation. The purpose of the Review is to more fully understand the efficacy and propriety of those steps and to answer, to the satisfaction of the Attorney General, those open questions. Among other things, the Review will seek to determine whether the investigation complied with applicable policies and laws. Accordingly, the Attorney General has directed that a team (Review Team) led by John Durham, the United States Attorney for the District of Connecticut, conduct the Review in order to better understand the activities leading up to and relating to the counter-intelligence investigation.

On May 24, 2019, the President issued a memorandum concerning the Review, which directed that “[t]he heads of elements of the intelligence community . . . and the heads of each department or agency that includes an element of the intelligence community shall promptly provide such assistance and information as the Attorney General may request in connection with

that review.” As the Attorney General has stated publicly, he has consulted and is working in close coordination with other members of the U.S. intelligence community in conducting the Review. The Review is thus a collaborative, ongoing effort between the Department’s Review Team and the intelligence community as well as certain foreign actors.

In furtherance of the Review, and to ensure that it proceeds in an efficient and effective manner, the Review Team has requested that certain intelligence community agencies: (1) preserve all relevant records, (2) ensure the availability of witnesses that may be pertinent to the Review, and (3) begin identifying and assembling materials that may be relevant to the Review, consistent with the President’s memorandum and federal law. These requests inevitably relate to sensitive information in the possession of the intelligence community. While the Attorney General has been granted the authority to declassify information in connection with the Review, it is of great importance to the Department to protect classified information by preventing the unwarranted disclosure of sensitive sources, methods, techniques and materials where such disclosure would endanger the personal safety of U.S. government employees or friendly foreign partners, harm U.S. national security interests, or compromise the ability of U.S. government agencies to conduct their important work to protect the American people. The Attorney General greatly appreciates the work of the women and men serving in the U.S. intelligence community in carrying out their mission, as well as the assistance that our foreign intelligence partners often provide, and has therefore directed the Review Team to work closely with the intelligence community to ensure that national security equities of the U.S. and its foreign intelligence partners are adequately protected in the course of the Review.

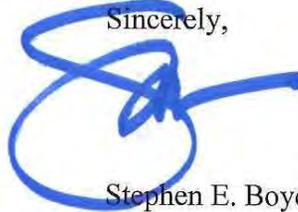
During the Review, Mr. Durham will continue to serve as U.S. Attorney for the District of Connecticut. The Review is being conducted primarily in the Washington, D.C. area by Mr. Durham and a number of U.S. Attorney’s Office personnel and other Department employees. The Department has made existing office space in Washington available for this work. Mr. Durham’s Review will be funded out of the U.S. Attorneys Salaries and Expenses appropriation.

The Attorney General looks forward to obtaining a better understanding of the critical period leading up to the 2016 presidential election, which to date has not fully been examined. As the U.S. approaches another election season, it would be most prudent to timely draw upon the lessons learned from our recent history, and to apply them responsibly and effectively to protect the interests of the American people, within the bounds of sound judgment and the rule of law. We appreciate your support to that end.

The Honorable Jerrold Nadler
Page Three

Please do not hesitate to contact this office if you have any additional questions or concerns.

Sincerely,

A handwritten signature in blue ink, consisting of a large, stylized 'S' followed by a horizontal line that loops back under the 'S'.

Stephen E. Boyd
Assistant Attorney General

cc: The Honorable Doug Collins
Ranking Member

Congress of the United States
Washington, DC 20515

June 21, 2019

The Honorable Christopher Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue NW
Washington, DC 20535

Dear Director Wray:

During the 115th Congress, the House Permanent Select Committee on Intelligence launched an investigation into Foreign Intelligence Surveillance Act (FISA) abuse and other matters. As part of that investigation, which Committee Republicans are now continuing, the Committee issued a subpoena on August 24, 2017 to the Federal Bureau of Investigation (FBI) for “[a]ny and all documents including electronic communications referring or relating to...the so-called ‘Trump Dossier’...including...any and all documented communications, if they exist, concerning Mr. Steele or sub-sources, information provided by Mr. Steele or sub-sources, or information contained in the ‘Trump Dossier.’”

Recently, memoranda and notes recounting an October 11, 2016 meeting between former Deputy Assistant Secretary of State Kathleen Kavalec and Christopher Steele were made public through open records litigation. According to Kavalec’s notes, Steele related to her numerous false claims from his dossier. Additionally, Kavalec recorded that Steele said his client was “keen to see this information come to light prior to November 8”; Steele falsely claimed Russian emigres were targeting the 2016 presidential election in an operation run out of the Russian Consulate in Miami, which Kavalec noted does not exist; and Steele gave strong indications he was talking to the media, thus violating the conditions of his status as an FBI informant.¹ These statements would cast doubt on Steele’s credibility, which the FBI championed to affirm false allegations from the Steele dossier that were included in FISA warrant applications on Trump campaign associate Carter Page.

The State Department provided Kavalec’s materials to the FBI for classification review as part of a lawsuit filed under the Freedom of Information Act (FOIA). Therefore, at a certain point, the FBI gained access to her memoranda and notes. However, the FBI failed to provide these materials to the Committee pursuant to requests made as part of its investigation –

¹ John Solomon, *Steele’s Stunning Pre-FISA Confession: Informant Needed to Air Trump Dirt Before Election*, THE HILL (May 7, 2019); John Solomon, *FBI’s Steele Story Falls Apart: False Intel and Media Contacts Were Flagged before FISA*, THE HILL (May 9, 2019).

including in response to the Committee's August 24, 2017 subpoena. Any indication that the FBI intentionally withheld this information from the Committee, which was requested in furtherance of the Committee's investigation into FISA abuse and related matters, would raise serious questions about whether FBI officials obstructed an authorized congressional investigation.

To better understand what information the State Department provided to the FBI, communications between the agencies about Christopher Steele and/or the Steele dossier information, and why the FBI failed to produce this information to the Committee in response to the August 24, 2017 subpoena, please provide the following information no later than Friday, June 28, 2019:

1. The date that the FBI was informed about the transmission of information from Christopher Steele to Kathleen Kavalec, including but not limited to the information now known as the Steele dossier;
2. All documents and communications between the State Department and the FBI related to Christopher Steele, his company Orbis, or the information Mr. Steele provided to either the State Department or the FBI;
3. All documents and communications provided to the FBI related to Kathleen Kavalec's relationship with Christopher Steele, including the date that the FBI was informed about the October 11, 2016 meeting, and all memoranda, notes, or other materials that the FBI received from the State Department related to that meeting;
4. An explanation why all materials related to Kathleen Kavalec's meetings and/or communications with Christopher Steele were not provided to the Committee in response to its August 24, 2017 subpoena.
5. All documents and communications related to the FBI's classification review of Kathleen Kavalec's notes and memoranda related to Christopher Steele, including but not limited to all classified and unclassified information that was not publicly released pursuant to FOIA litigation;
6. All documents and communications related to the FBI's redaction decisions related to notes, memoranda, and any other materials provided by the State Department;
7. All documents and communications related to internal FBI discussions about whether to provide these materials to the Committee.

Please contact Committee Republican staff at (202) 225-4121 with any questions about this request. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Devin Nunes". The signature is written in a cursive style with a large, looping initial "D".

Devin Nunes
Ranking Member

cc: The Honorable Michael Pompeo, Secretary of State
The Honorable William Barr, Attorney General
The Honorable John Durham, United States Attorney for the District of Connecticut

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
MINORITY (202) 225-5074
<http://oversight.house.gov>

June 24, 2019

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Mr. Attorney General:

We understand that you have appointed John H. Durham, the United States Attorney for the District of Connecticut, to conduct a comprehensive investigation of counterintelligence decisions made by the Federal Bureau of Investigation (FBI) and the Department of Justice (DOJ) in the context of the 2016 presidential election.¹ As members of the House Committee on Oversight and Government Reform in the 115th Congress, our oversight uncovered information about political biases and, according to FBI and DOJ witnesses we interviewed, self-described “unusual” conduct surrounding the FBI’s investigation of campaign associates of then-candidate Donald J. Trump (Russia investigation).² We write to bring to your attention several areas of inquiry that we respectfully suggest are worthy of further examination as part of Mr. Durham’s investigation.

1. The evidence used and gathered in the FBI’s investigation of four Americans as part the FBI’s Russia investigation

During the Committee’s transcribed interview of former FBI Director James Comey, he testified that the FBI “opened investigations on four Americans to see if there was any connection between those four Americans and the Russian interference effort. And those four

¹ Adam Goldman, et al., *Barr Assigns U.S. Attorney in Connecticut to Review Origins of Russia Inquiry*, N.Y. TIMES (May 13, 2019).

² See James Baker Transcribed Interview 53, Oct. 18, 2018 (“It was unusual for me to be the recipient of information directly from the public or a lawyer or anyone else about an allegation of a crime.”); Bruce Ohr Transcribed Interview 43, Aug. 28, 2018; *see also* Bruce Ohr Transcribed Interview 43, Aug. 28, 2018; *id.* at 42 (Mr. Gowdy. Can you think of other instances in your career since 1991 where you made yourself part of a chain of custody? Mr. Ohr. Not -- I don’t remember getting any other sticks or anything like that, so --”); *id.* at 31; INSPECTOR GEN., DEP’T OF JUSTICE, *A Review of Various Actions by the Federal Bureau of Investigation and Department of Justice in Advance of the 2016 Election*, 329 (2018) (“we did not have confidence that [Peter] Strzok’s decision to prioritize the Russia investigation over following up on [the Clinton email investigation] was free from bias.”).

Americans did not include the candidate.”³ Neither the FBI nor the DOJ has confirmed the identities of these four Americans. Mr. Durham’s investigation provides an opportunity for much-needed transparency and accountability around the FBI’s investigations of these four Americans. We hope that Mr. Durham will examine all relevant details about the FBI’s investigations of these four Americans, including the investigations’ predication, initiation dates, evidence compiled, and sources used to investigate each of them.

2. *The timing of Christopher Steele’s initial FBI contacts and the initiation of the Russia investigation*

You have expressed skepticism about the stated timeframe for the FBI’s initiation of its Russian investigation.⁴ Former FBI attorney Lisa Page testified to the Committee that the FBI learned the basis for the Russia investigation on July 28 and formally opened it on July 31, 2016.⁵ However, Fusion GPS president Glenn Simpson provided a different timeframe to the House Permanent Select Committee on Intelligence (HPSCI). He testified that Christopher Steele—who was retained by Fusion GPS, on behalf of Perkins Coie LLP and the Democrat National Committee (DNC), to obtain opposition research about Donald Trump—contacted the FBI in early July 2016.⁶ We hope that Mr. Durham will examine the timing of Steele’s initial communications with the FBI about Donald Trump and all actions taken by the FBI before July 31, 2016, related to its Russia investigation.

3. *How the FBI verified information in the Steele dossier before presenting it to the Foreign Intelligence Surveillance Court (FISC)*

Christopher Steele was the author of the collection of unverified and salacious reports (Steele dossier) used by the FBI to surveil at least one Trump campaign associate, Carter Page. According to one FBI employee, the FBI relied on Steele’s reporting so much that without it, it was only “50-50” that a court would approve the FBI’s Carter Page Foreign Intelligence Surveillance Act (FISA) warrant.⁷ However, Director Comey testified that the FBI had not completed verifying Steele’s reporting by the time it applied to surveil Carter Page in October 2016—in fact, Director Comey testified the FBI could not verify all of Steele’s information even by May 2017.⁸ If Director Comey knew that Steele’s information was unverified, it is unclear

³ James Comey Transcribed Interview 24, Dec. 7, 2018; *see id.* at 58 (“And he also was one of the handful of people in the entire world who knew we were investigating four Americans who had some connection to Mr. Trump during the summer of 2016.”).

⁴ *The Department of Justice’s Investigation of Russian Interference with the 2016 Presidential Election: Hearing Before the S. Comm. on Judiciary*, 116th Cong. 167 (May 1, 2019) (“The position is the Trump-Russia investigation began in July [2016], but I do not know the answer.”) (statement of William Barr, Att’y Gen., Dep’t of Justice).

⁵ Lisa Page Transcribed Interview 41-42, 48 July 13, 2018 (Page: “... I think we learned about it on a Friday or Thursday.... Gowdy: You learned about it on the 28th? Page: Right. Thank you.”).

⁶ Interview of Glenn Simpson 76-77, H. Perm. Select Committee on Intel. (Nov. 14, 2017).

⁷ Sally Moyer Transcribed Interview 162, Oct. 23, 2018 (“Q. If it did not have the Christopher Steele information in it, would it still have been sufficient from a probable cause standard? Moyer. So I think it’s a close call, like 50/50, 51/49. I really think it’s a close call. There were others that I believed felt more strongly about it.”).

⁸ James Comey Transcribed Interview 127-128, Dec. 7, 2018 (“Mr. Ratcliffe. Okay. Well, do you recall that, on numerous occasions subsequent to October 21st of 2016, you, in your capacity as the FBI Director, referred to the Steele dossier as salacious and unverified? Mr. Comey. Yes. I don’t know that I was referring to all of it. Maybe I

why he signed a FISA application that incorporated it. In addition, it is unclear why, after acknowledging the Steele dossier information was unverified, Director Comey did not demand the information's removal from Carter Page's FISA application, or at least require the FBI to completely verify Steele's information before submitting it to the FISC.

The FBI claimed to have a verification process in 2016 to check Steele's assertions.⁹ Former Deputy Director Andy McCabe and former Deputy Attorney General Sally Yates apparently reviewed the Carter Page FISA application line-by-line before it was submitted to the FISC.¹⁰ However, a State Department official who independently met with Steele in October 2016 recounted how she immediately doubted the veracity of some of his assertions.¹¹ We hope that Mr. Durham's investigation will determine what the FBI's verification process of the pivotal Steele dossier entailed and how much of the information in the dossier was verified by the time the FBI applied to surveil Carter Page in October 2016. If the FBI was not able to verify all aspects of the dossier, Mr. Durham's investigation should find all relevant facts about why an incompletely verified dossier was incorporated into the FISA application.

4. Whether the FBI conveyed Steele's bias against Donald Trump to the FISC

Multiple witnesses testified to the Committee that the FBI was aware that Steele was "desperate" that Donald Trump not be elected president.¹² However, FBI assistant general counsel Sally Moyer testified that the FBI viewed this Steele sentiment as merely an "additional fact point of information" already known about Steele and not necessarily indicative of his bias.¹³ The FBI has not disclosed whether it informed the FISC that Steele—the author of the dossier—was "desperate" that Donald Trump not become president. We respectfully suggest that

was, but I had in mind some particular portions of it that were salacious and unverified. Mr. Ratcliffe. But, again, your characterization of it was that it was unverified, even though you had verified it to the court? Mr. Comey. Well, it was coming to us from a reliable source with a track record, and it's an important thing when you're seeking a PC warrant. But what I understand by verified is we then try to replicate the source information so that it becomes FBI investigation and our conclusions rather than a reliable source's. That's what I understand it, the difference to be. And that work wasn't completed by the time I left in May of 2017, to my knowledge.")

⁹ See Lisa Page Transcribed Interview 167, July 16, 2018 ("One of the other things you said sort of unverified, salacious. And so that's true, and I can't get into sort of the substance of what we did, but immediately, I mean as soon as we received the reporting from Steele in mid-September, we set about trying to prove or disprove every single factual statement in the dossier. And so, and we had line level analysts who are super experts on Russia, try to pick apart each statement and either try to prove its veracity or prove its inaccuracy. And to the best of my knowledge, we were never able to disprove any statement in it. So we were never able to say: There's a claim about X, and that is untrue."); *id.* at 168 ("I'm talking about a separate effort that was undertaken in order to try to verify for investigative purposes, not for purposes of the FISA, but a separate effort undertaken to try to validate the allegations contained within the Steele reporting.")

¹⁰ Trisha Anderson Transcribed Interview 217, Aug. 31, 2018 ("The Deputy Director was involved in reviewing the FISA line by line. The Deputy Attorney General over on the DOJ side of the street was similarly involved, as I understood, reviewing the FISA application line by line.")

¹¹ According to the official, Kathleen Kavalec, Steele conveyed to her a network of Russian assets were paid through the Russian consulate in Miami. Kavalec immediately commented in her notes afterwards, "It is important to note there is no Russian Consulate in Miami." Deputy Assistant Secretary of State Kathleen Kavalec's Notes from Meeting with Chris Steel and Tatyana Duran of Orbis Security, 2 (October 11, 2016).

¹² Bruce Ohr Transcribed Interview 124, Aug. 28, 2018; Sally Moyer Transcribed Interview 156-57, Oct. 23, 2018.

¹³ Sally Moyer Transcribed Interview 156-57, Oct. 23, 2018.

Mr. Durham's investigation should determine whether the FBI conveyed Steele's manifest bias against Donald Trump to the FISC when it applied for FISA warrants to spy on associates of the Trump campaign.

5. *Whether the FBI compensated Steele for his work as a human source*

There are open questions about whether and when the FBI compensated Steele. Both former Director Comey and former FBI attorney Lisa Page denied that the FBI compensated Steele for his work as an FBI human source, testifying that he was only reimbursed for expenses.¹⁴ However, the FBI redacted the payment descriptions from the invoices he submitted for payment.¹⁵ We hope that Mr. Durham's investigation will examine how the FBI compensated Steele and if the FBI compensated Steele for anything other than operational expenses.

6. *The timing and circumstances of Steele's termination as an FBI source*

According to internal FBI documents released pursuant to the Freedom of Information Act, the FBI terminated Steele as a source in early November 2016.¹⁶ However, former Director Comey testified that he did not know "for a fact" that Steele had ever been terminated as a source.¹⁷ We hope that Mr. Durham's investigation will examine the timing and circumstances of Steele's termination as an FBI source.

7. *The FBI's awareness that the DNC indirectly financed the Steele dossier*

Witness testimony and reports suggest that Marc Elias and Michael Sussmann of Perkins Coie LLP, representing the DNC and the Clinton campaign, urged the FBI to target their political opponent, then-candidate Donald Trump. As reported publicly, the DNC financed the political opposition research that Steele presented to the FBI to predicate its surveillance of individuals associated with the Trump campaign.¹⁸ The DNC did so through its attorney, Marc Elias, who hired Fusion GPS, which retained Steele to perform the research.¹⁹ Former DOJ attorney Bruce Ohr testified to the Committee that he informed the FBI that Fusion GPS had been performing

¹⁴ James Comey Transcribed Interview 114, Dec. 7, 2018; Lisa Page Transcribed Interview 166-167, July 16, 2018.

¹⁵ FD-1040a (June 14, 2018), <https://vault.fbi.gov/records-between-fbi-and-christopher-steele/records-between-fbi-and-christopher-steele-part-01-of-01/view>.

¹⁶ FD-1040a, 2, (June 14, 2018), <https://vault.fbi.gov/records-between-fbi-and-christopher-steele/records-between-fbi-and-christopher-steele-part-01-of-01/view> ("CHS [Steele] was used as a source for an online article. In the article, CHS revealed CHS' relationship with the FBI as well as information that CHS obtained and provided to FBI. On November 1, 2016, CHS confirmed all of this to the handling agent. At that time, handling agent advised CHS that the nature of the relationship between the FBI and CHS would change completely and that it was unlikely that the FBI would continue a relationship with the CHS. Additionally, handling agent advised that CHS was not to operate to obtain any intelligence whatsoever on behalf of the FBI.").

¹⁷ James Comey Transcribed Interview 126, Dec. 7, 2018.

¹⁸ Adam Entous, et al., *Clinton campaign, DNC paid for research that led to Russia dossier*, WASH. POST (Oct. 24, 2017); see *In re Carter W. Page, A U.S. Person*, FISA Ct., 1, 15 n.8 (Oct. 2016).

¹⁹ Adam Entous, et al., *Clinton campaign, DNC paid for research that led to Russia dossier*, WASH. POST (Oct. 24, 2017); Michael Kranish, *Clinton lawyer kept Russian dossier project closely held*, WASH. POST (Oct. 27, 2017); Bruce Ohr Transcribed Interview 124-125, Aug. 28, 2018.

opposition political research.²⁰ However, former FBI Director Comey denied knowing that Fusion GPS and Perkins Coie were working on behalf of the DNC, adding: “I don’t remember ever hearing the name ‘Fusion GPS’ or the names ‘Perkins Coie’ or ‘Coie.’ I don’t even know how to say that word. I don’t remember that.”²¹

We hope that Mr. Durham’s investigation will examine the FBI’s awareness of the financial relationships between the DNC, Perkins Coie, Fusion GPS, and Steele. In addition, we hope the investigation will examine how the FBI evaluated Steele’s information in light of these political relationships and whether these matters were disclosed to senior FBI leadership.

8. *The FBI’s receipt and use of information provided by Perkins Coie attorney Michael Sussmann*

Former FBI General Counsel James Baker testified that he received information from Sussmann concerning alleged communications obtained by “cyber experts” between a Trump-associated business entity and a Russian bank.²² Baker testified that he understood it was unusual for the FBI’s top lawyer to be a part of an evidentiary chain and sought to provide the information to the appropriate FBI agents.²³ However, Baker was uncertain whether the FBI followed standard procedures in documenting how it received the information.²⁴

We hope that Mr. Durham will examine the information that Sussmann provided to Baker and determine how Sussmann obtained the information. We hope Mr. Durham’s investigation will also evaluate whether the FBI followed evidentiary protocols in handling and processing this information.

9. *The FBI’s reliance on information from Christopher Steele—via Bruce Ohr—following Steele’s termination as a human source*

The FBI used Christopher Steele as a confidential human source before terminating its relationship with him on or around November 1, 2016, after Steele leaked investigative details to the media.²⁵ Following Steele’s termination, DOJ attorney Bruce Ohr became the conduit

²⁰ Bruce Ohr Transcribed Interview 124-125, Aug. 28, 2018.

²¹ James Comey Transcribed Interview 115-116, Dec. 17, 2018.

²² James Baker Transcribed Interview 123, Day 2, Oct. 18, 2018 (“To the best of my recollection, he told me that it had been obtained by some type of cyber experts, and I don’t know who -- how they started their inquiry into this. But that is what he told me, that some certain cyber experts had obtained information about some anomalous looking thing having, to my knowledge, nothing to do with the dossier.”).

²³ James Baker Transcribed Interview 54, Day 2, Oct. 18, 2018 (“I was aware of the fact that I was taking in evidence and wanted to quickly get it to agents as fast as I could.”).

²⁴ James Baker Transcribed Interview 52, Day 1, Oct. 3, 2018 (“I can’t remember if they did a 302 on the Sussman thing because they may have just recorded it, put the material into evidence, and have records with respect to that. He gave me material and that was put into evidence.”).

²⁵ FD-1040a, 2, (June 14, 2018), <https://vault.fbi.gov/records-between-fbi-and-christopher-steele/records-between-fbi-and-christopher-steele-part-01-of-01/view> (“CHS [Steele] was used as a source for an online article. In the article, CHS revealed CHS’ relationship with the FBI as well as information that CHS obtained and provided to FBI. On November 1, 2016, CHS confirmed all of this to the handling agent. At that time, handling agent advised CHS that the nature of the relationship between the FBI and CHS would change completely and that it was unlikely that

through which Steele continued to provide information about President Trump to the FBI until November 2017.²⁶ Ohr testified that this arrangement was something he had never been a part of in his 27-year career with DOJ.²⁷ According to Ohr, Steele was communicating with him about the Russia investigation despite Steele's termination from the case. However, the FBI still arranged to receive Steele's information, through Ohr.²⁸ The FBI even sought to meet directly with Steele after his termination as a human source.²⁹ From our transcribed interviews, we know that several FBI officials—including Peter Strzok, Lisa Page, and Bill Priestap—traveled to London, where Steele was located, in December 2016.³⁰ In addition, Bruce Ohr's wife, Nellie Ohr, a Fusion GPS contractor, gave Bruce a flash drive of research she had gathered related to then-candidate Trump in the hopes it would aid the Russia investigation.³¹

We hope that Mr. Durham's investigation will examine the FBI's reliance on and use of information presented by Steele through Ohr and whether that arrangement adhered to appropriate FBI policies and procedures. We also hope Mr. Durham will determine the extent to which the FBI relied upon the flash drive from Nellie Ohr. The investigation should also review the itineraries of the FBI officials who traveled to London during this period, including who they met with and what they discussed. Without a complete accounting of this travel, questions remain about whether FBI officials obtained information about American citizens from allied intelligence services. We hope that Mr. Durham will also verify that the FBI was not utilizing our allied intelligence services to circumvent DOJ or intelligence community rules against surveilling American citizens.

10. The roles played by Joseph Mifsud, Alexander Downer, Stefan Halper, and Azra Turk

George Papadopoulos, a low-level Trump campaign volunteer, had a series of unexplained meetings with foreign individuals soon after joining the Trump campaign in March 2016. Papadopoulos stated that he received interest from three foreigners with connections to western intelligence services, Joseph Mifsud, Alexander Downer, Stefan Halper, and a reported covert intelligence officer, Azra Turk.³² Papadopoulos's interactions with these individuals allegedly served as the basis for the FBI initiation of the Russia investigation.³³ According to the Special Counsel's report, Mifsud, a Maltese college professor, offered Papadopoulos political

the FBI would continue a relationship with the CHS. Additionally, handling agent advised that CHS was not to operate to obtain any intelligence whatsoever on behalf of the FBI.").

²⁶ Bruce Ohr Transcribed Interview 233, Aug. 28, 2018.

²⁷ Bruce Ohr Transcribed Interview 43, Aug. 28, 2018 ("Mr. Gowdy. And you can't think of a single case where you inserted yourself into a chain of custody other than this one? Mr. Ohr. That's right."); *see id.* at 41 (Gowdy. "You've been with the Department since 1991? Ohr. Yes.").

²⁸ *See* Bruce Ohr Transcribed Interview, Aug. 28, 2018.

²⁹ Bruce Ohr Transcribed Interview 101-102, Aug. 28, 2018.

³⁰ Lisa Page Transcribed Interview 130-131, July 13, 2018; *see* Bill Priestap Transcribed Interview 45, June 5, 2018.

³¹ Bruce Ohr Transcribed Interview 101-102, Aug. 28, 2018.

³² George Papadopoulos, *The Russia probe started with the spies who marked me*, WALL. ST. J. (Apr. 17, 2019); Jerry Dunleavy, *Stefan Halper: The Cambridge don the FBI sent to spy on Trump*, WASH. EXAMINER (April 10, 2019).

³³ *See* SPECIAL COUNSEL ROBERT S. MUELLER, III, *Report On The Investigation Into Russian Interference In The 2016 Presidential Election*, 89 n. 465, Vol. 1 (2019); *see generally* George Papadopoulos Transcribed Interview, Oct. 25, 2018.

“dirt” on former Secretary Hillary Clinton in the form of hacked emails from the Clinton campaign.³⁴ Mifsud is reported to have affiliations with several western foreign and intelligence officials.³⁵ Papadopoulos also met with Downer, an Australian diplomat, in London—a meeting that was arranged by Christian Cantor and Erika Thompson.³⁶ Papadopoulos also had meetings with Halper and Turk, reportedly an intelligence officer who posed as Halper’s assistant.³⁷

In light of this information, we hope that Mr. Durham will examine these meetings, including the true identities about these foreign individuals and a complete accounting of the U.S. officials with whom they communicated. We hope that Mr. Durham’s investigation will examine the roles, if any, these foreign nationals played in the FBI’s Russia investigation and determine if the FBI was also utilizing them to circumvent any Justice Department rules surrounding surveilling Americans. We trust that Mr. Durham will also examine the investigative methods used by the numerous FBI lawyers and agents who investigated Papadopoulos.³⁸

11. Whether other federal agencies were involved in or aware of the FBI’s Russia investigation

You have testified that there are strict rules to ensure that the intelligence community and law-enforcement agencies adhere to the law in counterintelligence investigations.³⁹ There is evidence that at least one State Department official, Kathleen Kavalec, met with Christopher Steele in October 2016.⁴⁰ In addition, text messages exchanged between then-FBI Deputy Director Andy McCabe and then-FBI attorney Lisa Page allude to coordinating efforts between then-Deputy Attorney General Sally Yates and then-Deputy Central Intelligence Agency (CIA) Director David Cohen to prepare for a White House meeting at around the time the FBI applied to surveil Carter Page.⁴¹ Reportedly, emails reveal that former CIA director John Brennan

³⁴ SPECIAL COUNSEL ROBERT S. MUELLER, III, *Report On The Investigation Into Russian Interference In The 2016 Presidential Election*, 83, Vol. 1 (2019).

³⁵ See Letter from Devin Nunes, Ranking Member, H. Perm. Select Comm. on Intel., to Michael Pompeo, Sec’y of State, Gina Haspel, Dir., Central Intel. Agency, Paul Nakasone, Dir., Nat’l Sec. Agency, Christopher Wray, Dir., Fed. Bureau Inv. (May 3, 2019); Larry Luxner, *Maltese Official Raises Profile of U.K. Diplomacy Academy*, WASH. DIPLOMAT (Dec. 18, 2014); Stephanie Kirchgaessner et al., *Joseph Mifsud: more questions than answers about mystery professor linked to Russia*, THE GUARDIAN (Oct. 31, 2017).

³⁶ George Papadopoulos Transcribed Interview 31-32, 36-39, 96, Oct. 25, 2018. Papadopoulos alleged that Downer may have recording their conversation; *Id.* at 53.

³⁷ Adam Goldman, *F.B.I. Sent Investigator Posting as Assistant to Meet with Trump Aide in 2016*, N.Y. TIMES (May 2, 2019).

³⁸ George Papadopoulos Transcribed Interview 31-33, 46-47, 113-117, 158-159, 201, 205-210, 214, Oct. 25, 2018.

³⁹ *Department of Justice Budget Request for Fiscal Year 2020: Hearing before the S. Comm. on Approp.*, 116th Cong. (April 10, 2019).

⁴⁰ Deputy Assistant Secretary of State Kathleen Kavalec’s Notes from Meeting with Chris Steel and Tatyana Duran of Orbis Security, 2 (October 11, 2016).

⁴¹ Gregg Re, et al., *FBI clashed with DOJ over potential ‘bias’ of source for surveillance warrant: McCabe-Page texts*, FOX NEWS, March 22, 2019 (Oct. 14, Lisa Page: “Apparently the DAG [Deputy Attorney General Sally Yates] now wants to be there, and WH wants DOJ to host. So we are setting that up.... We will very much need to get [David] Cohen’s view before we meet with her. Better, have him weigh in with her before the meeting. We need to speak with one voice, if that is in fact the case.” Oct. 14, McCabe: “Thanks. I will reach out to David.”); see also text message from Peter Strzok to Lisa Page (Aug. 5, 2016, 16:37:25) (“Went well, best we could have expected.

The Honorable William P. Barr
June 24, 2019
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insisted that Steele's unverified and biased reporting be included in the Intelligence Community Assessment (ICA), a document that synchronized data from U.S. intelligence agencies about Russia's election interference.⁴² Mr. Durham should establish the extent of Brennan's reliance on Steele and determine whether other intelligence officials endorsed the information in the Steele dossier. We hope that Mr. Durham's investigation will also examine the involvement in and awareness of other federal agencies, including but not limited to the State Department, the CIA, and the White House or its National Security Council, in the FBI's Russia investigation.

* * *

You testified to believing that "there is a basis" for a concern that "unauthorized surveillance" or "spying" of Americans associated with President Trump's campaign occurred.⁴³ We agree. Although the vast majority of FBI and DOJ personnel are of the highest integrity, we too believe there "was probably a failure among a group of leaders there at the upper echelon [in the FBI]."⁴⁴ We have a responsibility to examine DOJ's and FBI's investigative actions in the 2016 presidential election to provide necessary transparency and accountability to re-instill confidence in our law-enforcement agencies. Your appointment of U.S. Attorney John Durham will assist us in this effort, and we hope that Mr. Durham's investigation will examine the issue areas we have highlighted.

Thank you for your continued leadership on this important topic.

Sincerely,



Jim Jordan
Ranking Member



Mark Meadows
Ranking Member
Subcommittee on Government Operations

cc: The Honorable John H. Durham, U.S. Attorney, Department of Justice
The Honorable Michael E. Horowitz, Inspector General, Department of Justice
The Honorable Elijah E. Cummings, Chairman, Committee on Oversight and Reform

Other than Liz's quote, "the White House is running this."); text message from Peter Strzok to Lisa Page (Oct. 9, 2016, 13:38:11) ("Im just worried dcia gets it and goes direct with D and/or WH.").

⁴² Gregg Re, et al., *Dispute erupts over whether Brennan, Comey pushed Steele dossier, as DOJ probe into misconduct begins*, FOX NEWS (May 15, 2019).

⁴³ *Department of Justice Budget Request for Fiscal Year 2020: Hearing before the S. Comm. on Appropriations*, 116th Cong. (April 10, 2019) ("Well, I guess—I think spying did occur. Yes, I think spying did occur.") (statement of William Barr, Att'y Gen., Dep't of Justice).

⁴⁴ *Department of Justice Budget Request for Fiscal Year 2020: Hearing before the S. Comm. on Appropriations*, 116th Cong. (April 10, 2019) (statement of William Barr, Att'y Gen., Dep't of Justice).

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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

September 17, 2019

GABRIELLE D'ADAMO SINGER, STAFF DIRECTOR
DAVID M. WEINBERG, MINORITY STAFF DIRECTOR

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
Robert F. Kennedy Building
Washington, DC 20530

Dear Attorney General Barr:

Since becoming Chairman of the Homeland Security and Governmental Affairs Committee, I have requested information on a wide range of topics from the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI). Primary topics include the FBI's investigation of former Secretary of State Hillary Clinton's use of a private email account and server, and the FBI's counter-intelligence investigation of President Trump and his campaign officials. To date, DOJ's and the FBI's production of information in response to these requests has been meager and highly disappointing.

The reasons for not producing information generally include ongoing special counsel or other department/criminal investigations. I certainly understand and accept the confidentiality requirements of criminal probes, but as Chairman of the Senate's primary oversight committee, I must also promote and defend the public's right to know, either directly or through their elected representatives in Congress. This is especially true for criminal investigations involving public officials. Even when an investigation is ongoing, however, that does not preclude the DOJ from conducting a careful analysis and providing Congress as much information as possible, rather than the blunt "ongoing investigation" excuse. Also, unlike other cases where investigative information is withheld from the public if no indictment is obtained, once an investigation is concluded, information about official conduct should be made available to the public.

I appreciate your willingness to meet this Thursday, September 19. In preparation for that meeting, I have detailed outstanding information requests that have gone largely unanswered. I am also making a request for additional, related information of which I have recently become aware.

My unanswered requests to DOJ and FBI for information and documents include:

Redaction of documents:¹

1. Please identify all FBI employees who have been involved in reviewing documents responsive to Congressional oversight, including employees who may no longer be involved in the process;

¹ Letter from Ron Johnson, S. Comm. on Homeland Security & Gov. Affairs, to Christopher A. Wray, Director, Federal Bureau of Investigation, U.S. Department of Justice. (May 11, 2018).

2. Please identify all FBI employees who have been involved in redacting information from responsive documents, including employees who may no longer be involved in the process.

January 6, 2017 briefing to President-elect Trump by Intelligence Community leaders (sent May 21, 2018):²

3. Please identify all members of the “sensitive matter team,” as referenced in Mr. Rybicki’s January 6th email;
4. Please provide the date and circumstances by which the FBI first learned that media outlets, including CNN may have possessed the Steele Dossier;
5. Please produce any notes, memoranda or other written material created in preparation of briefing then-President-elect Trump about the Steele Dossier on January 6;
6. Please produce all documents and communications between or among James Comey and James Clapper or their staffs referring or relating to Director Comey’s briefing President-elect Trump about the Steele Dossier;
7. Please produce all documents and communications between or among FBI employees and other Executive Branch officials or employees referring or relating to the “sensitive matter” or to Director Comey’s communication to the President-elect Trump about the existence of the Steele Dossier.

Andrew McCabe’s memo’s regarding interactions with Deputy Attorney General Rod Rosenstein (sent September 28, 2018):³

8. Please produce all documents authored or dictated by former Acting FBI Director Andrew McCabe or former FBI lawyer Lisa Page referring or relating to conversations with DAG Rosenstein about President Trump.

DOJ official Bruce Ohr, FBI general counsel James Baker and lawyer Michael Sussmann’s communications (sent October 12, 2018):⁴

9. Please produce all communications and documents, including FD-302s, memorializing the FBI’s communications with Michael Sussmann and Bruce Ohr.

² Letter from Ron Johnson, S. Comm. on Homeland Security & Gov. Affairs, to Christopher A. Wray, Director, Federal Bureau of Investigation, U.S. Department of Justice. (May 21, 2018).

³ Letter from Ron Johnson, S. Comm. on Homeland Security & Gov. Affairs, to Christopher A. Wray, Director, Federal Bureau of Investigation, U.S. Department of Justice. (Sept. 28, 2018).

⁴ Letter from Ron Johnson, S. Comm. on Homeland Security & Gov. Affairs, to Christopher A. Wray, Director, Federal Bureau of Investigation, U.S. Department of Justice. (Oct. 12, 2018).

Classified appendix connected to the DOJ Office of the Inspector General's "A review of Various Actions by the Federal Bureau of Investigation and Department of Justice in Advance of the 2016 Election" report (sent April 16, 2019):⁵

10. Special Counsel Mueller's work is complete and along with Sens. Grassley and Graham, I reiterate our request for a briefing on the material in the classified appendix.

Potential surveillance of the Trump campaign during 2016 (sent April 25, 2019):⁶

11. Please describe the nature and extent of your review of FBI surveillance of the Trump campaign, President-elect Trump's transition staff, Vice President-Pence's transition staff, President Trump's staff, and Vice President Pence's staff, including your efforts to determine whether that surveillance was adequately predicated;
12. How many counter-intelligence briefings were provided to the Trump and Pence transition staffs prior to Inauguration Day? Please list the dates, all agencies involved, and each official that represented those agencies at the briefings;
13. Many of the FBI employees involved in these activities are no longer employed by the federal government. How will your review obtain information needed from these individuals?
14. Will you commit to providing the results of your review once completed?
15. What steps have you taken to investigate whether DOJ or FBI officials had unauthorized contact with the media during the Russia investigation?

Christopher Steele meeting with Department of State officials (sent May 9, 2019):⁷

16. On what date did the State Department notify the FBI that it obtained the Steele dossier?
17. How did the State Department describe to the FBI the process by which it obtained the Steele dossier?
18. On what date did the State Department notify the FBI about the October 2016 meeting between Kathleen Kavalec and Christopher Steele?

⁵ Letter from Ron Johnson, S. Comm. on Homeland Security & Gov. Affairs, Charles E. Grassley, S. Comm. on Finance, and Lindsey O. Graham, S. Comm. on the Judiciary, to William P. Barr, Attorney General, U.S. Department of Justice, (Apr. 16, 2019).

⁶ Letter from Ron Johnson, S. Comm. on Homeland Security & Gov. Affairs, and Charles E. Grassley, S. Comm. on Finance, to William P. Barr, Attorney General, U.S. Department of Justice, (Apr. 25, 2019).

⁷ Letter from Ron Johnson, S. Comm. on Homeland Security & Gov. Affairs, and Charles E. Grassley, S. Comm. on Finance, to Christopher A. Wray, Director, Federal Bureau of Investigation, U.S. Department of Justice, (May 9, 2019).

19. On what date did the State Department provide the memorandum, notes, and any other material connected to Kathleen Kavalec's October 2016 meeting with Christopher Steele to the FBI?
20. Did any FBI employees request that Christopher Steele furnish the dossier to the State Department or seek a meeting with the State Department? If so, who, when, and why?
21. Did the State Department mark any material from the October 2016 meeting as classified? If so, what was initially marked classified and at what level?
22. Has the FBI provided all material related to the State Department's meeting with Steele to the Justice Department Office of the Inspector General? If so, on what date? If not, why not?
23. All records, including all memoranda, notes, and other material regarding the State Department's receipt of the Steele dossier and its referral of that information to the FBI;
24. An explanation about the legal and factual basis for classifying any of these materials.

With regard to my additional related requests, a recent court filing identified certain events, documents, and other information closely related to my continued oversight of these issues.⁸ Insofar as that information is not covered by my outstanding requests, I respectfully ask that DOJ and FBI provide the following information:

1. A purported letter from the British Embassy to the National Security team regarding Christopher Steele;⁹
2. Please provide unredacted FBI FD-302's regarding Michael Flynn;¹⁰
3. Please produce all documents, notes, communications, and FD-302s regarding Nellie Ohr;¹¹
4. Please produce all documents, notes, communications, and FD-302s regarding Stefan Halper;¹²

⁸ Def.'s Mot. to Compel the Production of *Brady* Material and for an Order to Show Cause at 3, *U.S. v. Flynn*, 17-cr-232, ECF No. 111 (D.D.C. Sept. 11, 2019).

⁹ *Id.*

¹⁰ *Id.* at 4.

¹¹ *Id.*

¹² *Id.*

5. Please produce all documents, notes, communications, and FD-302s regarding the use of “OCONUS lures” against Trump campaign officials;¹³
6. Please produce all documents, notes, communications, and FD-302s regarding Joseph Misfud;¹⁴
7. Please produce all documents, notes, communications discussing the Russia investigation and FD-302s regarding or involving Mary B. McCord;¹⁵
8. Please produce all documents, notes, communications of Sally Yates discussing the Russia investigation;¹⁶
9. Please produce all documents, notes, communications detailing an alleged FBI meeting/video conference in which Andrew McCabe allegedly discussed Michael Flynn and Donald Trump.¹⁷

Please provide a response to this letter no later than October 1, 2019.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate “the efficiency, economy, and effectiveness of all agencies and departments of the Government.”

Thank you for reviewing these requests and should you have any questions, please contact Brian Downey of my staff at (202) 224-4751.

Sincerely,



Ron Johnson
Chairman

cc: The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation

The Honorable Michael E. Horowitz
Inspector General

¹³ *Id.*

¹⁴ *Id.* at 5.

¹⁵ *Id.*

¹⁶ *Id.* at 6.

¹⁷ *Id.*