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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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October 11, 2016

VIA ELECTRONIC TRANSMISSION

The Honorable James B. Comey, Jr.
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Dear Director Comey:

I wrote to you on March 2, 2016, regarding the FBI's involvement in the Baltimore Police Department's (BPD) investigation into the death of Annie McCann.¹ I requested "non-redacted copies of all records related to the FBI's involvement in this case, including the recommendations list and the communications strategy document . . . and all records relating to communications about the McCann case between or among FBI employees or BPD."²

However, the FBI's response contains only limited documentation regarding Annie McCann's case. Specifically, the FBI produced only two documents, one of which contains significant redactions citing a so called "law enforcement privilege."³ However, to the extent the FBI had any legitimate interest in withholding investigative information from Congress, there appears to be no basis for that in this instance. It is unclear whether the FBI even opened a criminal inquiry in this matter. Plus, the case has been closed and inactive for many years.

The FBI acknowledged that additional responsive documents exist that the FBI declined to produce to the Committee, citing the FBI's "substantial confidentiality interests in other law enforcement sensitive materials, the disclosure of which would adversely impact important relationships with our law enforcement partners."⁴ However, even the limited information that the FBI produced raises concerns. The FBI provided documentation of the BPD's request for a criminal investigative analysis. The FBI's documentation of the request indicates that the BPD did not believe that further investigation was necessary, but requested assistance from the FBI in response to pressure from the McCanns to reopen the investigation. The FBI recorded the following as information provided by the BPD.

¹ Letter from Hon. Charles E. Grassley, Chairman, Senate Committee on the Judiciary, to Hon. James B. Comey, Jr., Director, FBI (Mar. 2, 2016).

² *Id.*

³ Letter from Stephen D. Kelly, Assistant Director, Office of Congressional Affairs, FBI, to Hon. Charles E. Grassley, Chairman, Senate Committee on the Judiciary (June 2, 2016).

⁴ *Id.*

Annie McCann's surviving parents are unwilling to accept the conclusions of the Baltimore City Homicide detectives. They also question the findings of the Baltimore medical examiner. They have hired private investigators to retrace their daughter's steps and review the investigation conducted by the Baltimore City Police Department. They also cite the statement by a forensic pathologist, claimed by a blogger to be "renowned," that insufficient amounts of lidocaine are present in a bottle of Bactine to be fatal. The McCann's [sic] are seeking to have the investigation renewed The McCanns have publicly accused the Homicide detectives of being lazy and consider their investigation to date to be insufficient for them to come to the conclusions that they have made.

The request implies that the McCanns were irrationally unsatisfied with the BPD's investigation and that the McCanns acted unreasonably by independently seeking answers related to their daughter's death. The nature and tone of the request detracts from an objective presentation of the case and the request for assistance. Rather, it suggests that the BPD's request merely sought to have the FBI affirm the BPD's conclusions and support the BPD in its interactions with the McCanns.

The Committee continues to seek a more complete understanding of the FBI's involvement in the BPD's investigation of Annie McCann's death. Accordingly, I reiterate my March 2, 2016 request for all non-redacted documents related to Annie McCann's case, including:

1. The recommendations list and the communications strategy document;
2. All communications about the McCann case between or among the FBI and BPD, including communications before the BPD requested that the FBI conduct a criminal investigative analysis; and
3. All documentation containing the FBI's analysis of the BPD's investigation.

Additionally, please provide answers to the following questions:

4. Given that Annie McCann disappeared in Virginia and her body was found in Maryland, the FBI would have had authority to investigate her death in 2008. Did the FBI open an investigation into, or do any work related to, Annie McCann's death prior to the National Center for the Analysis of Violent Crime's criminal investigative analysis in 2012 or at any point? If not, why not?
5. Did the FBI possess the McCann's vehicle and/or laptop(s) at any point during the BPD's investigation? If yes, please provide the dates during which the FBI possessed each item in question, and whether the FBI conducted forensic tests or performed any other work related to the vehicle or laptop(s).

6. Did any FBI forensics experts review any of the forensic evidence and claims of the BPD, including whether the amount of lidocaine in the Bactine bottle was sufficient to cause death? If not, why not?

Please respond by October 25, 2016. Should you have questions regarding this request, please contact Samantha Brennan of my Committee staff at (202) 224-5225. Thank you for your immediate attention to this matter.

Sincerely,



Charles E. Grassley
Chairman
Senate Judiciary Committee

cc: The Honorable Patrick Leahy
Ranking Member
Senate Judiciary Committee