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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, Chief Counsel and Staff Director
JENNIFER DUCK, Democratic Chief Counsel and Staff Director

July 6, 2018

VIA ELECTRONIC TRANSMISSION

The Honorable Rod J. Rosenstein
Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

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

Dear Deputy Attorney General Rosenstein and Director Wray:

I am writing to formally request the declassification of the FD-302 interview summaries in which Bruce Ohr relayed his contacts with Christopher Steele, and to request that you produce the declassified versions directly to the Senate Judiciary Committee. As explained below, there is no continuing justification for the FBI to keep the documents secret.

In December of 2017, the Justice Department allowed the Ranking Member, me, and a few of our cleared Committee staff to review a collection of FBI documents relating to Christopher Steele. Through the Office of Senate Security, the Committee routinely receives and properly safeguards classified document productions. Yet, the Department refused to produce copies of these documents to the Committee, agreeing only to a limited *in camera* review. Among the documents made available for our review were a batch of FD-302 interview summaries in which senior Justice Department official Bruce Ohr relayed details of his interactions with Mr. Steele to the FBI. These summaries were marked "SECRET." The Department's insistence on limiting access to these documents creates unnecessary complications and burdens on the Committee's oversight work. Relying solely on memory of the documents or scheduling trips to the Justice Department for additional reviews is a poor substitute for possession of actual copies. It thwarts the Committee's ability to conduct a thorough analysis, compare the contents with other information, and take investigative steps to pursue related information.

On February 2, 2018, the President declassified information within a memorandum written by the majority staff of the House Permanent Select Committee on Intelligence. Among the declassified information in the memorandum was the following information relating to the Ohr 302s:

Before and after Steele was terminated as a source, he maintained contact with DOJ via then-Associate Deputy Attorney General Bruce Ohr, a senior DOJ official who worked

closely with Deputy Attorneys General Yates and later Rosenstein. Shortly after the election, the FBI began interviewing Ohr, documenting his communications with Steele. For example, in September 2016, Steele admitted to Ohr his feelings against then-candidate Trump when Steele said he “was desperate that Donald Trump not get elected and was passionate about him not being president.”¹

Then, on February 28, 2018, Senator Graham and I wrote to DOJ Inspector General Horowitz referring a number of issues for investigation regarding the Justice Department’s interactions with Mr. Steele in the course of its investigation relating to Russia and individuals associated with the Trump Campaign. Although the referral contained both classified and unclassified sections, we specifically asked that the FBI perform a classification review of the unclassified section prior to public release to confirm that it contained no classified information. On March 1, 2018, the FBI replied, confirming the FBI had reviewed the unclassified letter and found no classified information in the document. Included in this unclassified letter were the following references to the Ohr 302 interview summaries:

Numerous FD-302s demonstrating that Department of Justice official Bruce Ohr continued to pass along allegations from Mr. Steele to the FBI after the FBI suspended its formal relationship with Mr. Steele for unauthorized contact with the media, and demonstrating that Mr. Ohr otherwise funneled allegations from Fusion GPS and Mr. Steele to the FBI.²

That unclassified letter specifically referenced the following Ohr 302s:

1. Ohr FD-302 12/19/16 (interview date 11/22/16)
2. Ohr FD-302 12/19/16 (interview date 12/5/16)
3. Ohr FD-302 12/19/16 (interview date 12/12/16)
4. Ohr FD-302 12/27/16 (interview date 12/20/16)
5. Ohr FD-302 1/27/17 (interview date 1/27/17)
6. Ohr FD-302 1/31/17 (interview date 1/23/17)
7. Ohr FD-302 1/27/17 (interview date 1/25/17)
8. Ohr FD-302 2/8/17 (interview date 2/6/17)
9. Ohr FD-302 2/15/17 (interview date 2/14/17)
10. Ohr FD-302 5/10/17 (interview date 5/8/17)
11. Ohr FD-302 5/12/17 (interview date 5/12/17)
12. Ohr FD-302 5/16/17 (interview date 5/15/17)³

On May 21, 2018, I wrote to the Department requesting all records relating to Mr. Ohr’s communications about his interactions with Christopher Steele.⁴ That same day, the Department responded by producing 63 pages of unclassified emails and notes documenting Mr. Ohr’s interactions with Mr. Steele on these issues.

¹ House Permanent Select Committee on Intelligence Majority Staff, *Foreign Intelligence Surveillance Act Abuses at the Department of Justice and the Federal Bureau of Investigation* 3 (Jan. 18, 2018) (declassified by order of the President Feb. 2, 2018), available at https://intelligence.house.gov/uploadedfiles/memo_and_white_house_letter.pdf

² Letter from Chairman Grassley and Senator Graham to Inspector General Horowitz 2 (Feb. 28, 2018), available at [https://www.judiciary.senate.gov/imo/media/doc/2018-02-28%20CEG%20LG%20to%20DOJ%20OIG%20\(referral\).pdf](https://www.judiciary.senate.gov/imo/media/doc/2018-02-28%20CEG%20LG%20to%20DOJ%20OIG%20(referral).pdf)

³ *Id.* at n 5.

⁴ Letter from Chairman Grassley to Deputy Attorney General Rosenstein (May 21, 2018), available at [https://www.judiciary.senate.gov/imo/media/doc/2018-05-21%20CEG%20to%20DOJ%20\(Ohr\).pdf](https://www.judiciary.senate.gov/imo/media/doc/2018-05-21%20CEG%20to%20DOJ%20(Ohr).pdf)

In short, despite the classification headers on the Ohr 302s, nothing about those documents ought to be marked classified. The fact that these 302s contain Mr. Ohr's recounting of his interactions with Mr. Steele is unclassified. The dates of Mr. Ohr's interviews with the FBI to relay this information are unclassified. Mr. Ohr's emails and notes documenting the very interactions he relayed to the FBI – which are the subject of the FBI's summaries – are also unclassified. In light of this, there is no legitimate justification for the Department to continue to claim that these Ohr 302s are classified.⁵ The Department should promptly declassified them and produce them directly to the Committee. Please do so by July 20, 2018.

Thank you for your prompt attention to this matter. If you have any questions, please contact Patrick Davis of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

cc: The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary

Department Review Committee
Office of Information and Privacy
U.S. Department of Justice

⁵ Under Executive Order 13526 Sec. 1.8, “[a]uthorized holders of information who, in good faith, believe that its classification status is improper are encouraged and expected to challenge the classification status.” As an authorized holder of the information in the Ohr 302s, I hereby formally challenge their classification status pursuant to the Executive Order and the Department’s implementing regulation, 28 C.F.R. § 17.30. To the extent necessary, I also request a Mandatory Declassification Review pursuant to 28 C.F.R. § 17.31.