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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*

August 7, 2018

VIA ELECTRONIC TRANSMISSION

The Honorable Rod J. Rosenstein
Deputy Attorney General
U.S. Department of Justice

Dear Deputy Attorney General Rosenstein,

As we have discussed on several occasions, you agreed to provide the Judiciary Committee equal access to documents produced to the U.S. House of Representatives, including those pursuant to requests and subpoenas from the Select Committee on Intelligence related to 2016 election controversies.

Unfortunately, even though you gave me your word that the Committee would receive equal access, the Department has failed to deliver. On July 12, 2018, the New York Times reported that the Trump Administration ordered “more lawmakers be given access to classified information about an informant the F.B.I. used in 2016 to investigate possible ties between the Trump campaign and Russia...”¹ The article also reported that, “[t]he F.B.I. files about the informant will now be available to all members of the Senate and House Intelligence Committees, instead of to just a group of congressional leaders known as the Gang of Eight.”²

As you are aware, in the authorizing resolution that created the Senate Intelligence Committee, the Senate explicitly reserved for other standing Committees, such as the Senate Judiciary Committee, the independent authority to “study and review any intelligence activity” and “to obtain full and prompt access to the product of the intelligence activities of any department or agency,” when such a matter “directly affects a matter otherwise within the jurisdiction of such committee.”³

This Committee has jurisdiction over all federal courts, including the Foreign Intelligence Surveillance Court (FISC). Based on public reporting, the new information provided to the

¹ Mark Mazzetti, *White House Order Broader Access to Files About F.B.I. Informant*, New York Times (July 12, 2018).

² *Id.*

³ Senate Resolution 400.

Intelligence Committees appears to be relevant to an application to the FISC, which is an issue that has already been subject to extensive oversight by this Committee. Some of that oversight has been public, when possible. However, as you know, the Committee has also conducted its oversight responsibilities through classified letters, briefings, and document reviews. We have respected the limitations necessary to protect national security information. The Department has been responsive to the Committee's previous oversight requests and has provided access to the FISA application and some of the relevant background materials on more than one occasion, which is appreciated.

Yet, my Committee staff have attempted to informally work with the Department's Office of Legislative Affairs to obtain the equal access you promised to all of the relevant materials, but to no avail. For example, on March 23, 2018, the House Intelligence Committee requested the records of nine individuals related to Steele, his dossier, or campaign-related applications to the FISC. The nine individuals are:

1. James Comey
2. Andrew McCabe
3. Peter Strzok
4. Lisa Page
5. Sally Moyer
6. Bill Priestap
7. Greg Brower
8. James Baker
9. Bruce Ohr

The Department produced records to HPSCI related to Bruce Ohr on May 8, 2018, but initially withheld them from this Committee and denied that any records relevant to these topics had been provided to HPSCI. Only after Committee staff confronted Department staff with the misrepresentation were the Ohr documents finally produced to this Committee on May 21, 2018.

Accordingly, no later than August 14, please produce all records previously produced to HPSCI pursuant to its request and answer the following questions:

1. Are the 63 pages of Ohr-related records produced to this Committee on May 21, 2018, the sum total of all responsive Ohr documents in the possession of the DOJ or the FBI? If not, when will production of records responsive to this request be complete?
2. When will DOJ and FBI begin producing documents to this Committee pursuant to this request from the other eight individuals?
3. When will the Department provide *in camera* review on equal terms for the material referenced in the *New York Times* article?

Please send all unclassified material directly to the 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 the Committee, and provide a classified addendum to the Office of Senate Security. Although the Committee complies with all laws and regulations governing the handling of classified information, it is not bound, absent its prior agreement, by any handling restrictions.

Thank you in advance for your cooperation with this request. If you have questions, please contact Jason Foster of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

cc: The Honorable Christopher Wray
Director, FBI

The Honorable Michael Horowitz
Inspector General, DOJ

The Honorable Dan Coats
Director, ODNI