

**Prepared Statement by Senator Chuck Grassley of Iowa
Chairman, Senate Judiciary Committee
Hearing on “Oversight of the Federal Bureau of Investigation”
May 3, 2017**

Director Comey, welcome and thank you for all the FBI does to keep Americans safe. There has been a lot of controversy surrounding the FBI since the last time you were here in 2015.

In March, you publicly acknowledged that the FBI is investigating allegations of coordination between the Trump campaign and Russia’s efforts to interfere in the 2016 election. Under President Obama’s order, former DNI Clapper had been in charge of the Intelligence Community’s review of that interference. Mr. Clapper testified that President Obama asked the intelligence community to compile all available information. After he left office, Mr. Clapper said there was no evidence of collusion whatsoever. The New York Times also reported that American officials had found no proof of collusion. So, where is all this speculation about collusion coming from?

In January, BuzzFeed published a dossier spinning wild conspiracy theories about the Trump campaign. BuzzFeed acknowledged that the claims were unverified, and some of the details were clearly wrong. It has since been sued for publishing them. Since then, much of the dossier has been proven wrong, and many of its outlandish claims have failed to gain traction. For example, no one’s looking for moles or Russian agents embedded in the DNC. Yet some continue to quote parts of this document as if it were gospel. And according to press reports, the FBI has relied on it to justify its current investigation. There have even been reports that the FBI agreed to pay the author of the dossier—who paid his sources, who also paid their “sub sources.” Where did the money come from and what motivated the people writing the checks?

The company that oversaw the dossier’s creation, Fusion GPS, won’t say. Its founder, Glenn Simpson, is refusing to cooperate with this Committee’s inquiry. His company is also the subject of a complaint to the Justice Department. That complaint alleges that Fusion worked as an unregistered foreign agent for Russian interests—and with a former Russian intelligence agent—at the time it worked on the dossier. It was filed with the Justice Department in July, long before the dossier came out. The man who wrote the dossier admitted in court that it has unverified claims. Does that sound like a reliable basis for law enforcement or intelligence actions?

Unfortunately, the FBI has provided me materially inconsistent information about these issues. That is why we need to know more about it and how much the FBI relied on it. Once you buy into its claims of collusion, then suddenly every interaction with a Russian can be twisted to seem like confirmation of the conspiracy theory.

Now, obviously I don't know what the FBI will find. For the good of the country, I hope that the FBI gets to the truth soon, whatever that may be. If there are wrongdoers, they should be punished. And the innocent should have their names cleared. In the meantime, this Committee is charged with oversight of the FBI, and we can't wait until this is all over to ask the hard questions. Otherwise, too many people will have no confidence in the FBI's conclusions. The public needs to know what role the dossier has played and where it came from. We need to know whether there was anything improper going on between the Trump campaign and the Russians, or if these allegations are just a partisan smear campaign that manipulated our government into chasing conspiracy theories.

Now, before the election and before we knew about this notorious dossier, Director Comey publicly released his finding that Secretary Clinton was "extremely careless" in handling highly classified information—and his recommendation that no one be prosecuted. According to a recent New York Times article, he did it partly because he knew the Russians had a hacked email from a Democrat operative that might be released before the election. That email reportedly provided assurances that Attorney General Lynch would protect Secretary Clinton and make sure the FBI investigation "didn't go too far." Despite Attorney General Lynch's prior connections to the Clintons and her now-famous private conversation with former President Clinton during the investigation, she failed to recuse herself from it. And the Director's announcement effectively gave her cover to have it both ways. She could appear publicly uninvolved but remain in control of the ultimate outcome.

Moreover, in its haste to end a tough, politically charged investigation, the FBI failed to follow up on credible evidence of intent to hide federal records from Congress and the public. It is a federal crime to willfully and unlawfully conceal, remove, or destroy a federal record. Director Comey said that "[t]he FBI also discovered several thousand work-related emails" that Secretary Clinton did not turn over to the State Department. He said Secretary Clinton's lawyers "cleaned their devices in such a way as to preclude complete forensic recovery" of additional emails.

The Justice Department also entered into immunity agreements limiting the scope of the FBI investigation. Some of those agreements prohibited the FBI from reviewing any emails on the laptops of Clinton aides that were created outside of Secretary Clinton's tenure at State. But of course any emails relating to alienating records would not have been created until after she left office, during the Congressional and FBI reviews. And even though these records were subject to congressional subpoena and preservation letters, the Justice Department agreed to destroy the laptops.

So a cloud of doubt hangs over the FBI's objectivity. The Director says that the people at the FBI don't give a rip about politics. But, he installed as Deputy Director a man whose wife ran for elected office and accepted almost a million dollars from Gov. Terry McAuliffe, a longtime friend and fundraiser for the Clintons and the Democrat Party. Andrew McCabe also reportedly met in

person with Gov. McAuliffe about his wife's political plans. But he did not recuse himself from the Clinton investigation, or the Russia matter, despite the obvious appearance of a conflict. The Inspector General is reviewing these issues, but once again, the people deserve answers, and the FBI is not providing them.

We need the FBI to be accountable, because we need the FBI to be effective. Its mission is to protect us from the most dangerous threats facing our nation. And since the Director was last here, the drumbeat of attacks on the United States from those directed or inspired by ISIS and other radical Islamic terrorists has continued.

For example, in June 2016, a terrorist killed 49 and wounded another 53 at a nightclub in Orlando, Florida frequented by the gay and lesbian community. It was the most deadly terrorist attack on U.S. soil since September 11, 2001. Not long afterward, in September, a terrorist stabbed 10 at a mall in Minnesota, and another terrorist injured 31 after he detonated bombs in New Jersey and New York City. And in November, a terrorist injured 13 after driving into students and teachers at Ohio State University.

Our allies haven't been immune either. We all recall the tragedy in July 2016, when a terrorist plowed a truck through a crowd in France, killing over 80 people. So we in Congress need to make sure that the FBI has the tools it needs to prevent and investigate terrorism, as well as other serious violent crimes. And these tools must adapt to both evolving technology and threats, while preserving civil liberties.

I hope we can also hear from the Director about the FBI's use of some of these tools that may require Congress's attention. Most obviously, the FISA Section 702 authority is up for reauthorization at the end of the year. This authority provides the government the ability to collect the electronic communications of foreigners outside the United States with the compelled assistance of American companies. The Bush and Obama Administrations were strongly supportive of Section 702, and now the Trump Administration is as well. From all accounts, the law has proven to be highly effective in helping to protect the United States and our allies.

The Privacy and Civil Liberties Oversight Board, the Foreign Intelligence Surveillance Court, and many other federal courts have found Section 702 constitutional and consistent with the Fourth Amendment. Yet questions and concerns persist for many about its effect on our civil liberties, specifically in the way the FBI queries data collected under Section 702.

In addition, the Director has spoken out often about how the use of encryption by terrorists and criminals is eroding the effectiveness of one of the FBI's core investigative tools – a warrant based on probable cause. I look forward to an update from the Director on the Going Dark problem.

I am also waiting for answers about the FBI's advance knowledge of an attempted terrorist attack in 2015 in Garland, Texas. Fortunately, the attack was interrupted by a local police officer, but not before a guard was shot. After the attack, the Director claimed that the FBI did not have advance knowledge of it. But it was recently revealed that an undercover FBI agent was in close communication with one of the attackers in the weeks leading up to the attack. The undercover agent was in a car directly behind the attackers when they started shooting and fled the scene.

This Committee needs clarity on what the FBI knew, whether there was a plan to disrupt any attack, and whether it shared enough information with local law enforcement.

Finally, as you know, the FBI Whistleblower Protection Enhancement Act became law in December 2016. It clarified that FBI employees are protected when they disclose wrongdoing to their supervisors. In April, we learned the FBI still has not updated its policies or done much to educate employees on the new law. The Inspector General gave the FBI updated training on this January. Employees who know they are protected are more likely to come forward with evidence of waste, fraud, and abuse. They should not have to wait many months to be trained on such a significant change in their rights and protections.

These are all important issues and I look forward to discussing them with Director Comey. The public's faith in the FBI, Congress, and our democratic process has been tested lately. Oversight and transparency will help us restore that faith.