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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 Staff Director

June 13, 2017

VIA ELECTRONIC TRANSMISSION

The Honorable Dianne Feinstein Ranking Member Committee on the Judiciary United States Senate Washington, D.C. 20510

Dear Ranking Member Feinstein,

Thank you for your letter on June 9, 2017. As you and I have discussed, I agree that it is squarely within the Judiciary Committee's constitutional responsibility to conduct thorough oversight of decisions made by the Justice Department and FBI. That includes those related to Mr. Comey's removal, Russian interference in the presidential election, and other high-profile, politically-charged investigations such as the handling of the Clinton email investigation.

Too many people give in to bias and prejudge before all the facts are in. Too many people want answers to questions that they think serve their preconceived notions and are less interested in getting answers to questions that they fear might be uncomfortable for their political allies. You distinguished yourself by your response on television recently to a question about former FBI Director Comey's testimony regarding instructions from former Attorney General Lynch that made him "queasy." You were asked whether "Lynch was giving cover to the Clinton campaign." You said, "I can't answer that. I would have a queasy feeling too though to be candid with you. I think we need to know more about that and there's only one way to know about it and that's to have the Judiciary Committee take a look at that."

We agree about that, and I commend you for being candid. However, we disagree about whether that inquiry can or should be kept separate from our other bipartisan work together, as you went on to suggest. Allow me to explain my reasoning.

The Administration has referenced both Mr. Comey's handling of the Clinton investigation and Russia investigation as factors in his decision to fire Mr. Comey. Specifically, the memo from Deputy Attorney General Rosenstein explicitly cited Mr. Comey's presumption in announcing a prosecutorial decision and assuming the dual role of investigator and prosecutor, and Mr. Comey's failure to recognize and admit that error. In addition, the President's termination letter explicitly referenced Mr. Comey's private assurances that the President was

¹ Brianna Keilar, Dianne Feinstein State of the Union interview, CNN (June 11, 2017).

not the subject of an investigation. That reference, combined with Mr. Comey's testimony last week that he refused the President's asks to state that fact publicly, make it clear that the President was not happy with Mr. Comey's actions on that issue, and frankly, that makes perfect sense. If "unnamed sources" in the press were whipping up a frenzy by falsely claiming I was under investigation, I would want law enforcement to correct the record too. Anyone would. In fact, Mr. Comey took the opportunity in his testimony to clear his own name by denouncing as false the administration's claims that the FBI rank-and-file had lost confidence in Mr. Comey's leadership in the wake of the Clinton email investigation.

Accordingly, in evaluating the circumstances of Mr. Comey's removal, the Committee will inevitably need to fully investigate all of these issues. Given the high-profile nature of these inquiries, witnesses may be reluctant to participate voluntarily. Still, witnesses must be interviewed. I agree with you that it is particularly important to talk to those identified by Mr. Comey during the June 8, 2017 Senate Select Committee on Intelligence (SSCI) hearing and obtain additional information from the government pertaining to these matters.

Mr. Comey testified before this Committee on May 3, 2017, and before SSCI on June 8, 2017, that several incidents occurred during the course of the Clinton investigation that made him question the Department leadership's independence from political motivations. He testified that these incidents led to his decision to make a public announcement at the end of the FBI's investigation because he did not believe that the Department could credibly end it. Mr. Comey stated at the May 3, 2017 hearing before the Judiciary Committee:

The normal way to do it would be have the Department of Justice announce it, and I struggled, as we got closer to the end of it, with—a number things had gone on, some of which I cannot talk about yet, that made me worry that the Department leadership could not credibly complete the investigation and decline prosecution without grievous damage to the American people's confidence in the justice system.²

Mr. Comey's statement is extremely troubling. There should be no improper interference with FBI investigations to favor *any* elected official or candidate of *either* party. The Committee has an obligation to pursue all evidence of such misconduct.

You and I agree that the American people deserve a full accounting of attempts to meddle in both our democratic processes and the impartial administration of justice. The Judiciary Committee has an obligation to fully investigate any alleged improper partisan interference in law enforcement investigations. It is my view that fully investigating the facts, circumstances, and rationale for Mr. Comey's removal will provide us the opportunity to do that on a cooperative, bipartisan basis.

² Oversight of the Federal Bureau of Investigation, Hearing before the Senate Judiciary Committee, 115th Cong. 125–26 (2017) (statement of James Comey, Director, Federal Bureau of Investigation).

I appreciate your continued support. Thank you.

Sincerely,

Charles E. Grassley

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