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COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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June 29, 2017

**VIA ELECTRONIC TRANSMISSION**

The Honorable Michael E. Horowitz  
Inspector General  
U.S. Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530

Dear Inspector General Horowitz:

On November 2, 2016, I wrote to you requesting that your office perform a review of how the Justice Department and FBI handled the Clinton investigation to examine evidence that political considerations may have improperly affected the handling of the inquiry. It is important for Congress and the public to understand why key officials—including now-Acting Director Andrew McCabe and then-Attorney General Loretta Lynch—failed to recuse themselves to protect the public’s confidence in a fair and impartial inquiry. On January 12, 2017, you informed the Committee that your office would be initiating a review and that review would include whether Mr. McCabe should have been recused. You subsequently informed the Committee that the review would also include whether Attorney General Lynch should have been recused.

This week, additional information has come to light that also raises serious questions about Mr. McCabe’s potential conflicts with respect to investigations involving Lt. Gen. Michael Flynn. Mr. McCabe is reportedly the subject of a pending Equal Employment Opportunity (EEO) complaint by a female FBI agent for sex discrimination, who alleges she was targeted for retaliation because of her complaint.<sup>1</sup> News reporting suggests that Mr. McCabe knew that the agent planned to file an EEO complaint before he launched an internal investigation against her.<sup>2</sup> Such knowledge of protected activity may be used to demonstrate that reprisal contributed to any subsequent personnel action. Mr. Flynn provided a letter of support for the agent—which FBI lawyers tried to bar from evidence in the case.<sup>3</sup>

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<sup>1</sup> Carrie Johnson, *Former FBI Agent Speaks Out: ‘I Was Not Protected,’* NPR (April 15, 2015)  
<http://www.npr.org/2015/04/15/399853577/former-fbi-agent-speaks-out-i-was-not-protected>

<sup>2</sup> John Solomon and Sara Carter, *Did the FBI retaliate against Michael Flynn by launching Russia probe?* Circa (June 26, 2017)  
<http://circa.com/politics/accountability/did-the-fbi-retaliate-against-michael-flynn-by-launching-russia-probe>

<sup>3</sup> *Id.*

Thus, it appears that Mr. McCabe is involved in a criminal investigation of a man who is also an adverse witness to him in a pending proceeding, which raises questions about why he did not recuse himself from matters involving Flynn.

In addition, a recent press report states that three FBI employees “personally witnessed McCabe make disparaging remarks about Flynn before and during the time the retired Army general emerged as a figure in the Russia case.”<sup>4</sup> That evidence of potential personal bias against Mr. Flynn, and Mr. McCabe’s failure to recuse himself from the Flynn investigation, calls into question whether Mr. McCabe has handled that investigation fairly and objectively, or whether he had or has any retaliatory motive against Flynn.

Accordingly, given that the Inspector General is already investigating Mr. McCabe’s failure to recuse in the Clinton investigation, please also report to the Committee on whether Mr. McCabe retaliated against the EEO complainant, whether there is evidence of any bias in his handling of matters related to Flynn, and why he did not recuse himself from the Flynn investigation.

Thank you in advance for your cooperation with this request. Please respond no later than July 13, 2017. If you have questions, contact Josh Flynn-Brown or DeLisa Lay of my Judiciary Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley  
Chairman  
Senate Committee on the Judiciary

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<sup>4</sup> John Solomon and Sara Carter, *Did the FBI retaliate against Michael Flynn by launching Russia probe?* Circa (June 26, 2017) <http://circa.com/politics/accountability/did-the-fbi-retaliate-against-michael-flynn-by-launching-russia-probe>