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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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September 27, 2017

VIA ELECTRONIC TRANSMISSION

The Honorable Rod Rosenstein
Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Deputy Attorney General Rosenstein:

This responds to the Department's September 22, 2017 letter regarding the Committee's request to conduct interviews of Carl Ghattas, Executive Assistant Director of the National Security Branch, Federal Bureau of Investigation (FBI), and James Rybicki, Chief of Staff and Senior Counsel to the FBI Director. The Committee first requested these witnesses be made available for interview on July 11, 2017, two-and-a-half months ago.

Following two refusals by the Department to make them available voluntarily (on August 25 and September 13), the Committee began drafting subpoenas to compel their testimony.¹ Only then did the Department finally agree to make them available voluntarily. The Department's letter says the offer is conditioned on: (1) conducting the interviews in a classified setting, (2) limiting their scope to avoid questions about "matters directly relating to, or interfering with, Special Counsel Mueller's investigation," (3) allowing a representative of the Justice Department to attend, and (4) providing access to the transcript by the witnesses and the Department.

As to the first condition, the Committee agrees that a portion of the interviews need to be conducted in a classified setting. However, the Committee intends to begin the interviews in an unclassified setting and proceed through all questions pertaining to unclassified matters first. Then, the interviews will conclude in a classified setting.

As to the second condition, it is unclear what the scope limitation you propose might mean in the context of any particular question. The following is a more precise description of the Committee's intended scope. The witnesses would be asked about the events that occurred prior

¹ Contrary to the implication in the Department's September 13 and September 22 letters, the Committee had, in fact, notified and consulted with Special Counsel Mueller's office for de-confliction purposes about interviewing these witnesses. Specifically, the Committee provided ample opportunity for that office to voice any objections, and accommodated that office's concern, as was documented in our official correspondence.

to the appointment of Special Counsel Robert Mueller—including matters related to: (1) improper political influence or bias in Justice Department (DOJ) or FBI activities during either the previous or the current administration, (2) the removal of James Comey from his position as Director of the FBI, (3) DOJ's and FBI's activities related to Hillary Clinton, (4) DOJ's and FBI's activities related to Donald J. Trump and his associates, and (5) DOJ's and FBI's activities related to Russian interference in the 2016 election. In the event that the Department refuses to make witnesses available voluntarily to answer questions related to the above matters, this would likely be the scope of the Committee's subpoena to compel their testimony.

As to the third condition, attendance by a Justice Department representative is acceptable, provided that the witnesses affirm that they understand that the DOJ does not represent their personal interests and that they consent to the interview without personal counsel present. If a witness prefers to have only personal counsel present—or both personal counsel and agency counsel—the Committee would accommodate the witness's choice. However, if the Committee proceeds with subpoenas, only counsel for the witness or the agency, would be allowed to be present in a compelled setting, but not both.

As to the fourth condition, the Committee would make both the unclassified and classified transcripts available to the witnesses for correction, and would make the classified transcript available to the Department for classification review and portion marking.

Please ensure that this correspondence is shared directly with the witnesses, and notify Committee staff if the Department objects to any of these terms. If we are unable to reach a voluntary agreement, the Committee will consider proceeding to compulsory process through its authority under the Constitution and pursuant to Senate and Committee rules.

Thank you for your attention to this letter. If you have any questions, please contact Samantha Brennan of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary