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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

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November 6, 2017

VIA ELECTRONIC TRANSMISSION

The Honorable Christopher Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Dear Director Wray:

On November 3, 2017, the FBI provided documents in response to the Committee's August 30, 2017, letter requesting records relating to then-Director Comey's statement exonerating Secretary Clinton from criminal wrongdoing. Among those documents, the FBI provided what appears to be a May 2, 2016, draft of the exoneration statement, two months before Director Comey's July 5, 2016 press conference. In that draft, the original language is shown to have included the following sentence:

There is evidence to support a conclusion that Secretary Clinton, and others, used the private email server in a manner that was *grossly negligent* with respect to the handling of classified material.¹

That same draft also included the following sentence:

Similarly, the sheer volume of information that was properly classified as Secret at the time it was discussed on email (that is, excluding the "up classified" emails) supports an inference that the participants were *grossly negligent* in their handling of that information.²

As you are aware, 18 U.S.C. § 793(f) makes the mishandling of classified material through gross negligence a criminal act. Although Director Comey's original version of his statement acknowledged that Secretary Clinton had violated the statute prohibiting gross negligence in the handling of classified information, he nonetheless exonerated her in that early, May 2nd draft statement anyway, arguing that this part of the statute should not be enforced.

¹ Bates stamp SJC000142 (emphasis added).

² *Id.* (emphasis added).

Apparently, as of May 2016, then-Director Comey and other FBI officials believed the facts fit that gross negligence standard until later edits were made on or about June 10, 2016, removing those two sentences and including the following sentence instead:

Although we did not find clear evidence that Secretary Clinton or her colleagues intended to violate laws governing the handling of classified information, there is evidence that they were extremely careless in their handling of very sensitive, highly classified information.³

While the edits are shown, the documents were not provided in their original format. Accordingly, in order for the Committee to better understand the documents, please answer the following no later than November 20, 2017:

1. Please provide copies of the files in their original format, including all metadata indicating who created the original drafts, who made the edits to the draft statement, and when those edits were made.
2. Please provide all records relating to discussions about why the edits were made.

I anticipate that your written response and the responsive documents will be unclassified. 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. The Committee complies with all laws and regulations governing the handling of classified information. The Committee is not bound, absent its prior agreement, by any handling restrictions or instructions on unclassified information unilaterally asserted by the Executive Branch.

Should you have further questions, please contact Josh Flynn-Brown of my Judiciary Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

³ Bates stamp SJC000158.