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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 Chief Counsel and Staff Director*

March 21, 2018

**VIA ELECTRONIC TRANSMISSION**

The Honorable Michael E. Horowitz  
Inspector General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-0001

Dear Inspector General Horowitz:

On March 19, I wrote to Attorney General Sessions to request all documentation relating to the basis for the recommendation of the Federal Bureau of Investigation's Office of Professional Responsibility (FBI OPR) that former Deputy Director Andrew McCabe be terminated. According to media reports, the larger review that you are preparing on matters related to the 2016 election addresses some of the same events that led to Mr. McCabe's firing.<sup>1</sup> The review reportedly includes a finding that Mr. McCabe provided an unauthorized disclosure of information to the Wall Street Journal and at least one instance of misleading investigators about it.<sup>2</sup>

A March 19 letter to me from the Judiciary Committee's minority members describes your report as presumably complete since "portions of the report have already been selectively leaked to press to justify the grounds for [Mr. McCabe's] dismissal." The Committee would like clarification as to whether the report is complete and whether material was "selectively leaked."

A statement released by Attorney General Sessions on March 17 publicly announcing Mr. McCabe's firing explains that the decision was based on your review as well as the findings of the FBI OPR.<sup>3</sup> The Committee would like clarification as to whether your office provided documentation to DOJ or FBI OPR relating to Mr. McCabe's termination.

In a March 19 letter to Senator Leahy, I expressed my intention to hold a hearing on the findings of your review after it is complete. In order to prepare for this hearing, it is important for the Committee to know its status, obtain a copy of the report as soon as it is final, and

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<sup>1</sup> Matt Zapotosky and Karoun Demirjian "McCabe was asked about media contacts on the day Comey was fired" The Washington Post March 20, 2018. [https://www.washingtonpost.com/world/national-security/mccabe-was-asked-about-press-contacts-on-the-day-comey-was-fired/2018/03/20/ab5031f8-2b8d-11e8-8688-e053ba58f1e4\\_story.html?utm\\_term=.269b7a93b01e](https://www.washingtonpost.com/world/national-security/mccabe-was-asked-about-press-contacts-on-the-day-comey-was-fired/2018/03/20/ab5031f8-2b8d-11e8-8688-e053ba58f1e4_story.html?utm_term=.269b7a93b01e)

<sup>2</sup> *Id.*

<sup>3</sup> Reuters Staff "Statement by Attorney General on firing of FBI's McCabe" March 17, 2018. <https://www.reuters.com/article/us-usa-trump-sessions-statement/statement-by-attorney-general-on-firing-of-fbis-mccabe-idUSKCN1GT040>

understand the extent to which your findings were relied upon by FBI OPR in its recommendation. Accordingly, please respond to the following no later than March 28, 2018:

1. What is the scope of the review that is reportedly being finalized, is it complete, and when do you expect it to be released?
2. Will you provide an embargoed copy to the Committee and provide a briefing on it prior to public release?
3. Do you have any reason to believe the claim that a portion of your report was selectively leaked to the media in order to justify the basis for Mr. McCabe's termination?
4. Please describe all documents and communications related to Mr. McCabe that your office provided to DOJ or FBI OPR, and please provide copies to the Committee.

Thank you for your attention to this important matter.

Sincerely,



Charles E. Grassley  
Chairman  
Committee on the Judiciary

cc:

The Honorable Dianne Feinstein  
Ranking Member  
Senate Committee on the Judiciary

Enclosures:

1. 2018-01-30 PJJ to CEG (FBI Reputation)
2. 2018-03-19 CEG to PJJ (Response)
3. 2018-03-19 DF, Jud Dems to CEG (IG Report and McCabe firing)
4. 2018-03-19 CEG to DOJ (OPR documentation)
5. 2018-03-19 CEG to DF (OPR report)
6. 2018-03-21 DF, Jud Dems to DOJ (OPR Process)
7. 2018-03-21 DF, Jud Dems to IG Horowitz (McCabe dismissal)

# United States Senate

WASHINGTON, DC 20510

January 30, 2018

The Honorable Charles Grassley  
Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

Dear  Chairman Grassley,

You and I both appreciate the value of transparency. Without transparency, there can be no accountability. That is a core function of our Judiciary Committee's centuries-old oversight responsibility. When we shed light on failings and shortcomings within our government, and when we hold our institutions accountable through oversight and corrective legislation, we compel our nation's top officials to do better. In doing so we protect our government itself and the interests of the American people it serves.

Never before have I been more concerned for the institutions we rely on to maintain our government's integrity than I am today.

I believe the Federal Bureau of Investigation, as an institution – and as our nation's premier law enforcement agency – is under attack. During my four decades in the Senate, I have never before seen career, apolitical law enforcement officials so relentlessly and publicly maligned by our own government. I have never before seen ongoing, critical investigations into pressing national security matters so blatantly politicized, both within the Executive Branch and in Congress. And I have never before been so concerned that the walls intended to protect the independence and credibility of our institutions are so at risk. I am concerned that this undue pressure has contributed to a wholesale changing of the guard within the FBI, with the Director, Deputy Director, General Counsel, and Chief of Staff to the Director all being replaced within the past eight months.

Never has our Committee's oversight authority of the Justice Department been more critical than now. I fear the damage being done to the FBI, and to our nation's institutions more broadly, will far outlast any current crises unless we take decisive, bipartisan action. Accordingly, I am asking you to hold an oversight hearing to examine the escalating attacks on, and risk of politicization of, the FBI. I believe both Director Christopher Wray and former Deputy Director Andrew McCabe should testify before our Committee.

I suspect that every member of our Committee would agree that mistakes were made during the course of important investigations led by the FBI in 2016. Some of those decisions are being analyzed by the Inspector General and I expect this Committee to take a close look at Mr.

Horowitz's forthcoming report. The review of tough and perhaps regrettable decisions made by career law enforcement officials is clearly part of our Committee's routine oversight of the Justice Department.

But there is nothing routine about what is happening today. I believe the ongoing attacks on and attempted politicization of the FBI demands our Committee's immediate attention. At a minimum that includes a public hearing with the FBI's Director and the recently departed Deputy Director. The Senate Judiciary Committee will fail to fulfill a core responsibility to oversee and protect the integrity of the FBI if it does nothing in this moment. History will judge us harshly if we collectively shrug our shoulders while our nation's premier law enforcement institutions are under assault.

I appreciate your lifelong commitment to transparency and to meaningful, dogged congressional oversight. I appreciate our friendship. And I appreciate your consideration of this request. I hope you will schedule an oversight hearing without delay.

Sincerely,

  
\_\_\_\_\_  
Patrick Leahy  
United States Senator

Chuck - it is serious  
PL

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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 Chief Counsel and Staff Director*

March 19, 2018

**VIA ELECTRONIC TRANSMISSION**

The Honorable Patrick J. Leahy  
U.S. Senator

Dear Senator Leahy:

As I explained to you privately before you released your January 30, 2017 letter to the press, I too am deeply concerned about politicization of the FBI. It is a serious matter when half the country is worried that the FBI has its thumb on the scales of justice for one political party, and the other half believes it has its thumb on the scales for the other party. That's why I was worried last year about news that the number two official at the FBI met with a longtime Clinton friend and fundraiser about the political campaign of that official's wife, who later accepted large contributions for her campaign. Many were also shocked that senior FBI officials were texting each other about their political biases against candidate Trump through much of 2016, and also when it was revealed that another high-ranking DOJ official served as a go-between for the author of the anti-Trump dossier and the FBI while his wife worked for Fusion GPS.

Both Democrats and Republicans asked the non-partisan, independent Inspector General appointed by President Obama to look into a whole range of issues involving the FBI's involvement in controversial cases related to the 2016 presidential campaign. We are all eager to see the results of that review, and you can be certain that this Committee will hold hearings on that report's findings once they become available. As many on both sides of the aisle have said in the wake of the removal of the former Deputy Director, we need to see what the evidence shows before making any final judgments. I hope you will support me in seeking documents from the Department that describe the recommendation of the career, non-partisan personnel in the FBI's Office of Professional Responsibility that the former Deputy Director be terminated.

Sincerely,



Charles E. Grassley  
Chairman

cc: The Honorable Dianne Feinstein  
Ranking Member

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WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*  
JENNIFER DUCK, *Democratic Chief Counsel and Staff Director*

March 19, 2018

Honorable Charles Grassley  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

Dear Chairman Grassley:

We are writing to request that the Committee ask for an advance and embargoed copy of the full Inspector General report, a portion of which has been cited as the basis for the firing of former FBI Deputy Director Andrew McCabe.

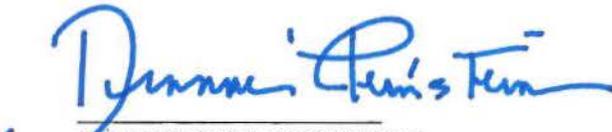
It has been reported that the Inspector General intends to release the report to the public sometime in the next few weeks. Presumably, the report is already complete since the Department is said to have relied upon it in firing Deputy Director McCabe and portions of the report have already been selectively leaked to press to justify the grounds for this dismissal.

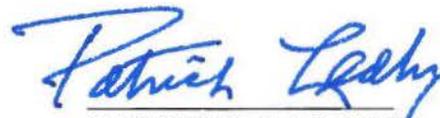
It is impossible for Members of this Committee, which has primary oversight responsibility for the Justice Department and FBI, to gauge the merits of this matter without reviewing the full report. We also believe that the Department needs to explain the timing and manner of this firing, including whether findings regarding Deputy Director McCabe were separated from the rest of the report or treated differently, whether the appropriate officials reviewed those findings, and the process followed to ensure that Deputy Director McCabe had adequate time to review and respond to the allegations against him.

We firmly believe that the Committee cannot review Mr. McCabe's dismissal without also examining the President's possible obstruction of justice and ongoing interference in law enforcement matters. Last summer, the President began publicly targeting Deputy Director McCabe and subsequently called for his firing. Two hours after the firing was announced, the President celebrated, tweeting that it was "A great day for Democracy."

The President's attacks on Deputy Director McCabe are part of a troubling, and unacceptable, pattern of harassment and intimidation of law enforcement professionals and this Committee has a responsibility to address it. Over the past year, we have sought a bipartisan investigation into possible obstruction of justice. We urge you to support these outstanding requests for documents and interviews and to work with the Democratic Members of the Committee to conduct a meaningful, bipartisan investigation.

Sincerely,

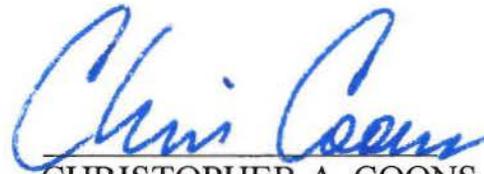
  
DIANNE FEINSTEIN  
Ranking Member

  
PATRICK J. LEAHY  
United States Senator

  
RICHARD J. DURBIN  
United States Senator

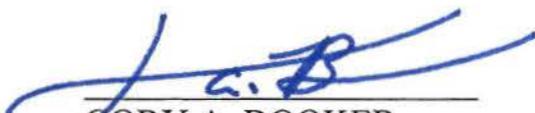
  
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KOLAN L. DAVIS, *Chief Counsel and Staff Director*  
JENNIFER DUCK, *Democratic Chief Counsel and Staff Director*

March 19, 2018

**VIA ELECTRONIC TRANSMISSION**

The Honorable Jeff Sessions  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue  
Washington, D.C. 20530

Dear Attorney General Sessions:

I write to formally request all documentation that describes the basis for the recommendation of the FBI's Office of Professional Responsibility that the former Deputy Director be terminated.

Thank you for your prompt attention to this request.

Sincerely,



Charles E. Grassley  
Chairman

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JENNIFER DUCK, *Democratic Chief Counsel and Staff Director*

March 19, 2018

**VIA ELECTRONIC TRANSMISSION**

The Honorable Dianne Feinstein  
Ranking Member  
Committee on the Judiciary

Dear Ranking Member Feinstein:

Thank you for your letter today. I already wrote to Senator Leahy earlier today asking him to join me in supporting a request for the final report from the career, non-partisan FBI Office of Professional Responsibility that reportedly recommended the former Deputy Director's termination.

Members on the Majority side have also expressed interest in seeing the basis for OPR's recommendation as well. And, unlike the Inspector General's forthcoming report, the OPR recommendation apparently is in final form. I've already asked the Justice Department to provide documents forming the basis for its decision, and I welcome your support for that request.

Sincerely,



Charles E. Grassley

cc:

The Honorable Orrin G. Hatch  
The Honorable Patrick Leahy  
The Honorable Lindsey Graham  
The Honorable Dick Durbin

The Honorable Mike Lee

The Honorable Sheldon Whitehouse

The Honorable Ted Cruz

The Honorable Amy Klobuchar

The Honorable Ben Sasse

The Honorable Chris Coons

The Honorable Jeff Flake

The Honorable Richard Blumenthal

The Honorable Mike Crapo

The Honorable Mazie Hirono

The Honorable Thom Tillis

The Honorable Cory Booker

The Honorable John Kennedy

The Honorable Kamala Harris

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## United States Senate

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KOLAN L. DAVIS, *Chief Counsel and Staff Director*  
JENNIFER DUCK, *Democratic Chief Counsel and Staff Director*

March 21, 2018

The Honorable Jeff Sessions  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue  
Washington, D.C. 20530

Dear Attorney General Sessions:

Yesterday, Chairman Grassley requested all documentation that describes the basis for the Federal Bureau of Investigation's (FBI) Office of Professional Responsibility (OPR) recommendation regarding former FBI Deputy Director McCabe. We share the Chairman's interest in seeing the FBI OPR recommendation, but also want to ensure that Congress understands the full context and process surrounding the Deputy Director's dismissal. We therefore write to request additional documents and information from the Department regarding OPR process and the Deputy Director's dismissal. Specifically, we request a timeline and explanation of the process followed by the Department and the FBI's OPR in Deputy Director McCabe's case as well as comparative information for other FBI officials subject to adverse action.

Last July, President Trump attacked Deputy Director McCabe on Twitter, accusing him of taking "big dollars (\$700,000) for his wife's political run from Hillary Clinton and her representatives" and questioning why he had not yet been fired. The President renewed his Twitter attack on the Deputy Director in December, stating that "FBI Deputy Director Andrew McCabe is racing the clock to retire with full benefits. 90 days to go?!!!" The President then celebrated the Deputy Director's dismissal, which came a little more than 24 hours before he would have been eligible for retirement, as "A great day for Democracy."

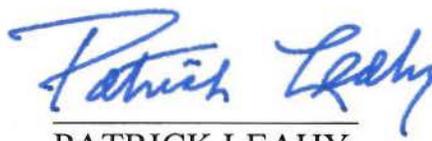
The President's public demand for the dismissal of Deputy Director McCabe before his retirement raises legitimate questions about how this matter was handled. We believe that it is incumbent upon the Department to provide sufficient background and context for Congress to make a full and fair assessment regarding this particular case. We therefore ask that you provide the following documents and information along with the documentation already requested by Chairman Grassley:

1. A timeline and explanation of the process followed by the FBI OPR. Please include, at a minimum, the date(s) that: (i) the Inspector General provided its findings and any recommendation to the FBI OPR; (ii) Deputy Director McCabe was advised of the findings and recommendations against him; (iii) the Deputy Director provided responsive materials (in writing or orally); (iv) the FBI OPR made its adverse action recommendation; (v) the Deputy Director was informed of the adverse action decision. Please identify the Department officials involved at each stage of this process.
2. The same information for the last twenty instances where the FBI OPR considered or took adverse action against an FBI employee. Please include at least five instances involving SES-level managers, going beyond the requested twenty instances as needed to obtain at least five instances involving SES-level managers.
3. An explanation of how, when, and by whom Deputy Director McCabe was advised of the final disciplinary decision.
4. All communications regarding the recommendation to dismiss Deputy Director McCabe between the Office of the Attorney General and (i) FBI OPR; (ii) the Office of the Inspector General; or (ii) the White House.

We believe that this comparative information is a critical supplement to the Chairman's request for documents reflecting the basis for OPR's recommendation and appreciate your prompt attention to this request.

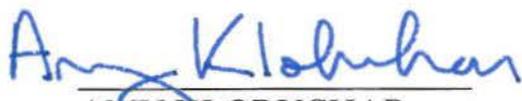
Sincerely,

  
DIANNE FEINSTEIN  
Ranking Member

  
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United States Senator

  
RICHARD J. DURBIN  
United States Senator

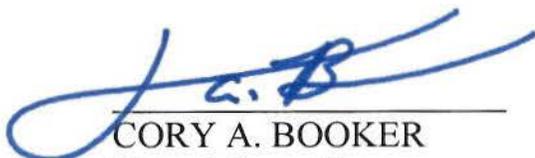
  
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cc: Charles E. Grassley, Chairman

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KOLAN L. DAVIS, *Chief Counsel and Staff Director*  
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March 21, 2018

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

Dear Inspector General Horowitz:

We write to request an embargoed copy of the Inspector General report on its review of allegations regarding various actions by the Department of Justice and the Federal Bureau of Investigation (FBI) in advance of the 2016 election. You announced initiation of that review on January 12, 2017 and it is our understanding that you intend to release the report sometime in the next few weeks.

A portion of that report has already been cited as the basis for the firing of former FBI Deputy Director Andrew McCabe. Since his firing, there have been additional leaks of information about the report. ("McCabe was asked about media contacts on the day Comey was fired," Washington Post, March 20, 2018).

We presume that your report is final, given it has been cited as informing the basis for the adverse action that already was taken against Deputy Director McCabe. It is impossible for Members of this Committee, which has primary oversight responsibility for the Justice Department and FBI, to gauge the merits of this matter without the report itself.

We therefore ask that you provide us with an embargoed copy or arrange to brief the Committee regarding your findings and recommendations as soon as possible and in advance of public release of the report.

We appreciate your prompt attention to our request.

Sincerely,

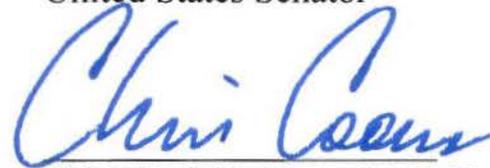
  
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cc: Charles E. Grassley, Chairman