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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
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May 4, 2018

VIA ELECTRONIC TRANSMISSION

The Honorable Christopher Wray
Director
Federal Bureau of Investigation

Dear Director Wray:

Yesterday, the FBI provided a response to my January 25, 2018, letter.¹ That response failed to answer the vast majority of questions posed.² However, your letter did mention that the “FBI has not requested from Ms. Page or Mr. Strzok any information from their personal email accounts, nor has the FBI conducted searches of non-FBI-issued communications devices or non-FBI email accounts associated with Mr. Strzok or Ms. Page.”³ Although, as your letter notes, the FBI is not “obligated” to collect all communications between employees, it is obligated to collect and preserve federal records. Text messages produced to the Committee show substantial reason to believe government work was performed on non-government systems during the course of a high-profile investigation.⁴ The work-related communications on non-government systems could shed more light on how the FBI handled the Clinton investigation and would constitute federal records that the FBI would be obligated to retrieve and preserve under the Federal Records Act.

For example, in two text messages Strzok said to Page:

Gmailed you two drafts of what I’m thinking of sending Bill, would appreciate your thoughts. Second (more recent) is updated so you can skip the first.⁵

...

Yep. Sent something to your gmail, **work-related**. Think I’m going to pull here and send to Kortan....⁶

¹ The FBI’s letter was dated May 2, 2018, but was received on May 3, 2018 by the Committee.

² The FBI’s May 3, 2018, response letter failed to answer questions 1-5 and 8-11.

³ Letter from Charles Thorley, Acting Assistant Director, FBI, to Senator Charles Grassley, Chairman, Sen. Comm. on the Judiciary (January 25, 2018).

⁴ DOJ-PROD-0000040; DOJ-PROD-0000055; DOJ-PROD-0000102; DOJ-PROD-0000169; DOJ-PROD-0000321; DOJ-PROD-0000003; DOJ-PROD-0000004; DOJ-PROD-0000012; DOJ-PROD-0000016; DOJ-PROD-0000017; DOJ-PROD-0000018; DOJ-PROD-0000022; DOJ-PROD-0000023; DOJ-PROD-0000025; DOJ-PROD-0000033; DOJ-PROD-0000034; DOJ-PROD-0000045; DOJ-PROD-0000065.

⁵ DOJ-PROD-0000102.

⁶ April 26, 2018 production (p.18).

In another text message, Strzok and Page appear to use the encrypted iMessage application on their personal Apple devices to discuss work-related material:

Strzok: Want to imsg it to me, or want to do it in person?

Page: It's not that sensitive.

Strzok: Ok. You can imsg just for convenience of typing, too, if you want.⁷

...

Strzok: And I have no good, awful, sh*tty terrible (work) news. I can't say it here, and you can't share with Andy (yet). I'm upset.

Page: Can you share it on imsg?

Strzok: Yes just sent[.]⁸

Under 18 U.S.C. § 2071, it is illegal to willfully and unlawfully conceal, remove, or destroy a federal record. Secretary Clinton alienated thousands of federal records when she used a non-government server and email for official work, many of which were deleted rather than returned to the State Department when the Department requested them. Ironically, as FBI employees tasked with investigating Clinton's similar conduct, Strzok and Page appear to have used non-government systems for official work as well. This Committee has yet to receive a satisfactory explanation as to why the FBI apparently let Secretary Clinton off the hook for multiple § 2071 violations. It is disturbing that even at this late date, and with all the litigation surrounding Secretary Clinton's use of a private email server for official business, the FBI seems similarly uninterested in even attempting to retrieve federal records of its own employees that appear to have been alienated as well. Accordingly, please answer the following no later than May 18, 2018:

1. Why has the FBI not requested from Ms. Page or Mr. Strzok any official work-related material from their personal devices and email accounts?
2. Why has the FBI not conducted searches of non-FBI-issued communications devices or non-FBI email accounts associated with Mr. Strzok or Ms. Page for official work-related material?
3. The FBI's May 3, 2018, response letter also failed to answer questions 1-5, 8, and 11. Please provide answers and the requested documentation by the deadline.

I anticipate that your written reply and most 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

⁷ DOJ-PROD-0000251.

⁸ DOJ-PROD-0000258.

unclassified information directly to the Committee, and provide a classified addendum to the Office of Senate Security. Although the Committee complies with all laws and regulations governing the handling of classified information, it is not bound, absent its prior agreement, by any handling restrictions.

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

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

cc: The Honorable Rod Rosenstein, Deputy Attorney General

The Honorable Dianne Feinstein, Ranking Member