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# United States Senate

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April 27, 2020

## VIA ELECTRONIC TRANSMISSION

The Honorable William Barr  
Attorney General  
Department of Justice

Dear Attorney General Barr:

On February 15, 2017, as Chairman of the Judiciary Committee, I wrote to the Department with Ranking Member Feinstein, requesting a copy of the call transcript between Lt. Gen. Michael Flynn and the Russian ambassador and the FBI report summarizing the intercepted call. Instead of providing the requested records, and as a result of my questions and concerns relating to the Flynn case, I received a briefing from then-Director Comey on March 15, 2017. In that briefing, Director Comey stated that the FBI agents that interviewed Lt. Gen. Flynn, “saw nothing that led them to believe [he was] lying” and he led us to believe that the Department was unlikely to prosecute Flynn for false statements. Later, during Comey’s book tour, he denied any memory of those comments.

On May 11, 2018, I requested categories of documents relating to the Flynn case from Deputy Attorney General Rosenstein, including call transcripts, 302s, and other potentially exculpatory evidence and requested to interview a fact witness to the case, Special Agent Pientka.

On May 29, 2018, the Department responded and declined to produce the requested records and arrange for Special Agent Pientka to be interviewed. The Department also admitted in that letter that it had yet to provide all exculpatory evidence to Flynn.

On June 6, 2018, I wrote a follow-up letter to Deputy Attorney General Rosenstein and noted that if the facts of the case are inconsistent with the plea agreement, that would be an extraordinarily concerning finding and one that would warrant continued congressional oversight. I further noted in that letter that the United States Congress has a separate, independent, constitutional interest in all information, including exculpatory information, relating to the Flynn case. After that June 2018 letter, my staff and I met with Deputy Attorney General Rosenstein where he resisted congressional oversight and suggested that Congress should be satisfied with the facts described in the plea agreement. It is certainly in the interest of Congress and the American people to know whether the FBI and the Department withheld facts in the course of their investigation and prosecution of an American citizen that are materially inconsistent with his plea.

This is no ordinary criminal case. One of the agents who interviewed Lt. Gen. Flynn, Peter Strzok, was later removed from the Russia investigation after his texts demonstrating animus and bias toward the President were discovered. Additionally, former Director McCabe was fired for lack of candor regarding a leak to the *Wall Street Journal*, and Lt. Gen. Flynn was an adverse witness in a pending sexual discrimination case against Mr. McCabe at the time Mr. McCabe was supervising an inquiry targeting Lt. Gen. Flynn.<sup>1</sup> Further, the Flynn case was at the center of a political firestorm over the President's alleged statements about it to Director Comey. Moreover, Flynn himself "had told both White House Counsel and the Chief of Staff at least twice that the FBI agents had told him he would *not* be charged,"<sup>2</sup> which is consistent with what Director Comey told me and my staff. The FBI's conduct is ripe for congressional oversight.

According to an April 24, 2020, letter from the interim U.S. Attorney for the District of Columbia, Timothy Shea, the Attorney General directed that the U.S. Attorney for the Eastern District of Missouri conduct an independent review of the Flynn case. As a result of this review, the EDMO has identified and produced new documents to Flynn's legal team, which they have publicly characterized as exculpatory evidence.

Simply stated, after years of rampant speculation and publicly reported inconsistencies regarding how the FBI handled the case, it's time for the public to know the full set of facts relating to Lt. Gen. Flynn, including any and all government misconduct. In light of the extraordinary public and congressional interest in this case, I request that you work with Flynn's attorneys to unseal these new records provided to them so that the public can access the material. In the alternative, I request that you amend the protective order so that Congress can review the information in light of its constitutional oversight prerogatives.

Sincerely,



Charles E. Grassley  
Chairman  
Committee on Finance

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<sup>1</sup> See Letter from Chairman Grassley to Inspector General Horowitz (June 29, 2017), [https://www.judiciary.senate.gov/imo/media/doc/2017-06-29%20CEG%20to%20DOJ%20IG%20\(McCabe%20Conflicts\).pdf](https://www.judiciary.senate.gov/imo/media/doc/2017-06-29%20CEG%20to%20DOJ%20IG%20(McCabe%20Conflicts).pdf)

<sup>2</sup> *The Trump Lawyer's Confidential Memo to Mueller, Explained*, THE NEW YORK TIMES (June 2, 2018) (quoting Letter from John M. Dowd and Jay A. Sekulow, Counsel to the President to Robert S. Mueller, Special Counsel, U.S. Dep't of Justice (Jan. 29, 2018)), <https://www.nytimes.com/interactive/2018/06/02/us/politics/trump-legal-documents.html#footnote-0-26>; Byron York, *Trump Lawyers Reveal Previously Unknown Evidence in Michael Flynn Case*, THE WASHINGTON EXAMINER (June 3, 2018), <https://www.washingtonexaminer.com/news/newlyleaked-memo-previously-unknown-evidence-michael-flynn-case>.