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KOLAN DAVIS, STAFF DIRECTOR AND CHIEF COUNSEL
JOSHUA SHEINKMAN, DEMOCRATIC STAFF DIRECTOR

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

May 12, 2020

VIA ELECTRONIC TRANSMISSION

The Honorable William Barr
Attorney General
Department of Justice

Ambassador Richard Grenell
Acting Director
Office of the Director of National Intelligence

Dear Attorney General Barr and Ambassador Grenell:

I want to express my thanks to both of you for your strong efforts to bring transparency to the Russia investigation which have shed a much-needed light on the multitude of wrongdoings that occurred. Now that the Justice Department has rightly taken steps to dismiss the case against Lt. Gen. Michael Flynn, I want to ensure that the remaining information and records that have not yet been produced to Congress relating to the Flynn case are still produced. While the court case may be nearing its end, the public still expects accountability, which can only be effectively delivered through additional transparency.

In February 2017, I requested records relating to the investigation into Flynn and the overall Russia investigation. In particular, I asked for the transcript of the call between Flynn and Russian Ambassador Sergey Kislyak and all records relating to his interview with the FBI, which I have yet to receive. In August 2017, I asked that the Defense Intelligence Agency (DIA) declassify key pieces of information relating to the Flynn case. Moreover, as I noted yesterday on the Senate floor, I acquired an email sent from National Security Advisor Susan Rice that she wrote to herself on her last day in office. That email described a January 5, 2017, meeting between President Obama, Vice President Biden, Director Comey, Deputy Attorney General Yates, and Rice where they discussed the Russia investigation. That email, along with the DIA records, contains classified information that should be declassified because the public interest in the information outweighs the need to protect it. Accordingly, I request that those records be declassified.

And finally, public reports have indicated that the names of Obama administration officials who unmasked Flynn and others have been declassified.

The underlying records to the Flynn case and Russia investigation are more important than ever. Congress, and most importantly the public, must fully understand the wrongdoing that occurred so that it is never repeated. In June of 2018, I warned then-Deputy Attorney General Rod Rosenstein that resisting transparency and oversight would only undermine faith in the Justice Department. I noted to him that regardless of the outcome of the case, Congress has a wholly separate, independent, constitutional oversight interest in the information. Mr. Rosenstein continued to resist congressional oversight and suggested that Congress should be satisfied with the facts described in the plea agreement. I have also noted that cooperation with Congress could enhance public trust in the Department by demonstrating that its work can withstand independent scrutiny.

Given what we now know about the government's withholding of exculpatory information, and as critics scrutinize the Department's decision to dismiss the case, it's imperative that the Department show all of its work. Without transparency there will never be true accountability. I strongly encourage you to ramp up your efforts to shine a light on political and bureaucratic wrongdoing during the Russia investigation and declassify and produce the aforementioned records to me no later than May 27, 2020. Should you have questions, please contact Joshua Flynn-Brown of my Committee staff at 202-224-4515.

Sincerely,



Charles E. Grassley
Chairman
Committee on Finance

Enclosures:

February 15, 2017, letter from Chairman Grassley and Ranking Member Feinstein to Attorney General Sessions and Director Comey

August 25, 2017, letter from Chairman Grassley to Secretary of Defense Mattis and Director of DIA Lt. Gen. Vincent Stewart

May 11, 2018, letter from Chairman Grassley to Deputy Attorney General Rosenstein and Director Wray

June 6, 2018, letter from Chairman Grassley to Deputy Attorney General Rosenstein

April 27, 2020, letter from Chairman Grassley to Attorney General Barr

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

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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 Staff Director

February 15, 2017

VIA ELECTRONIC TRANSMISSION

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

The Honorable James B. Comey, Jr.
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

Dear Attorney General Sessions and Director Comey:

We are writing to request a briefing for the Judiciary Committee during the week of the 27th regarding the circumstances that led to the recent resignation of National Security Advisor Michael Flynn. According to media reports, both the FBI and the Justice Department were involved. These reports raise substantial questions about the content and context of Mr. Flynn's discussions with Russian officials, the conclusions reached by the Justice Department and the actions it took in response, as well as possible leaks of classified information by current and former government employees.

Accordingly, we request that individuals with specific knowledge of these issues from both the FBI and Justice Department brief Committee Members and staff. We similarly request copies of the transcripts of Mr. Flynn's intercepted calls and the FBI report summarizing the intercepted calls referenced in the media. We anticipate that some of these documents may be classified, some may not, and others may contain both classified and unclassified information. Please deliver any documents containing classified information to the Office of Senate Security and provide all unclassified documents directly to the Committee. If you have any specific requests with regard to the Committee's handling of unclassified material, please raise those with us in advance.

Thank you for your attention to this important matter. Should you have any questions, please contact Patrick Davis of Chairman Grassley's Committee staff at (202) 224-5225, or Heather Sawyer of Ranking Member Feinstein's Committee staff at (202) 224-7703.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary



Dianne Feinstein
Ranking Member
Committee on the Judiciary

~~SECRET//NOFORN~~
(UNCLASSIFIED when separated from attachment)

CHARLES E. GRASSLEY, IOWA, CHAIRMAN
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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6025

KELAN L. DAVIS, Chief Counsel and Staff Director
JENNIFER DICK, Democratic Staff Director

August 25, 2017

VIA ELECTRONIC TRANSMISSION

The Honorable James N. Mattis
Secretary
U.S. Department of Defense
1300 Defense Pentagon
Washington, DC 20301-1300

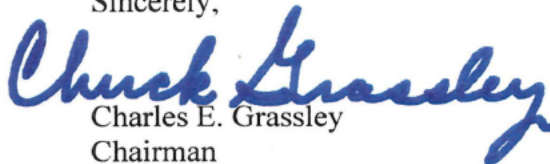
Lt. General Vincent R. Stewart
Director
Defense Intelligence Agency
U.S. Department of Defense
200 MacDill Boulevard, JBAB
Washington DC 20340-5100

Dear Secretary Mattis and Director Stewart:

On May 25, 2017, DIA personnel provided the Judiciary Committee a classified briefing and an in camera review of classified documents related to Lt. General Michael Flynn. I am writing to request that you declassify a key piece of information from that briefing. Given the nature of the briefing and documents, the details of my request are explained in the attached classified memorandum. Based on representations made by the DIA personnel, it appears the public release of this information would not pose any ongoing risk to national security. Moreover, the declassification would be in the public interest, and is in the interest of fairness to Lt. General Flynn.

Thank you for your prompt attention to this important matter. If you have any questions, please contact Patrick Davis of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

Enclosure: As stated.

~~SECRET//NOFORN~~
(UNCLASSIFIED when separated from attachment)

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

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JOHN KENNEDY, LOUISIANA	KAMALA D. HARRIS, CALIFORNIA

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

United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

May 11, 2018

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

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Ave NW
Washington, D.C. 20535

Dear Deputy Attorney General Rosenstein and Director Wray:

On February 15, 2017, this Committee requested on a bipartisan basis a copy of the transcript of the widely reported call between Lt. Gen. Michael Flynn and the Russian ambassador and the FBI report summarizing the intercepted calls. The Justice Department declined to provide any of that information, and instead then-FBI Director Comey provided a wide-ranging briefing to us on March 15, 2017 that touched on the Flynn issues.

Like the Flynn interview itself, that briefing was not transcribed. Also like the Flynn interview, there are notes taken by a career, non-partisan law enforcement officer who was present. The agent was on detail to the Committee staff at the time. According to that agent's contemporaneous notes, Director Comey specifically told us during that briefing that the FBI agents who interviewed Lt. General Michael Flynn, "saw nothing that led them to believe [he was] lying." Our own Committee staff's notes indicate that Mr. Comey said the "agents saw no change in his demeanor or tone that would say he was being untruthful."

Contrary to his public statements during his current book tour denying any memory of those comments, then-Director Comey led us to believe during that briefing that the agents who interviewed Flynn did not believe he intentionally lied about his conversation with the Ambassador and that the Justice Department was unlikely to prosecute him for false statements made in that interview. In the months since then, the Special Counsel obtained a guilty plea from Lt. General Flynn for that precise alleged conduct.

The Department has withheld the Flynn-related documents since our initial bipartisan request last year, citing an ongoing criminal investigation. With Flynn's plea, the investigation appears concluded. Additionally, while we are aware that the Special Counsel's office has moved to delay Lt. General Flynn's sentencing on several occasions, we presume that all related records already have been provided to the defense pursuant to Judge Sullivan's February 16, 2018 order requiring production of all potentially exculpatory material. Thus, although the case is not yet adjudicated, the Committee's oversight interest in the underlying documents requested more than a year ago now outweighs any legitimate executive branch interest in withholding it. So too does the Committee's interest in learning the FBI agents' actual assessments of their interview of Lt. Gen. Flynn, particularly given the apparent contradiction between what then-Director Comey told us in March 2017 and what he now claims.

Accordingly, no later than May 25, 2018, please provide:

1. The information requested in our February 15, 2017 letter, including the transcripts of the reportedly intercepted calls and any FBI reports summarizing them; and
2. The FBI agents' 302s memorializing their interview of Flynn and 1A supporting docs, including the agents' notes.

In addition, please make Special Agent Joe Pientka available for a transcribed interview with Committee staff no later than one week following the production of the requested documents. If you have any questions about this request please don't hesitate to contact Patrick Davis of my staff at (202) 224-5225. Thanks for your prompt attention to this important issue.

Sincerely,



Charles E. Grassley
Chairman

cc: The Honorable Dianne Feinstein
Ranking Member

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH
LINDSEY O. GRAHAM, SOUTH CAROLINA
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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*

June 6, 2018

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

Dear Deputy Attorney General Rosenstein:

The Department's reply to my May 11, 2018 letter seeking information about the circumstances surrounding Lt. General Michael Flynn's reported conversations with the Russian ambassador and FBI records related to those conversations is insufficient. The letter only recounts a series of publicly known facts about Lt. General Flynn's plea agreement and relies on improper excuses in refusing to provide the requested information. The Committee requires this information to fulfill its Constitutional function and its charge under Senate Rules to conduct oversight of the Department of Justice.

First, as you know, some of that information was first requested on a bipartisan basis before your confirmation. The Committee has waited patiently for much more than a year for the criminal inquiry related to Lt. General Flynn to conclude. It has been more than five months since his guilty plea. Thus, there is no longer any legitimate reason to withhold facts from the Senate about the circumstances of his conversations with the Russian ambassador and his FBI interview.

Second, the Department's letter erroneously suggests that complying with Congressional oversight would result in "the reality or the appearance of political interference" in a "pending criminal prosecution." There is no pending prosecution. The guilty plea was more than five months ago. The Department's letter describes in detail what everyone already knows. Lt. General Flynn admitted to the Statement of Offense with the able assistance of counsel. All that remains is for Lt. General Flynn to be sentenced. Simply disclosing facts to the Committee could not possibly "interfere" with the case at this late date, assuming those facts are consistent with the representations that prosecutors arranged for Lt. General Flynn to swear to in federal court.

If the facts are inconsistent with the plea agreement, that would be an entirely different kettle of fish.

Third, as both the Committee's request and the Department's reply note, any exculpatory evidence must be turned over to the defense. However, the Department's assurance that, "Mr. Flynn is represented by skilled and experienced attorneys who ... *will have* access to favorable evidence in the government's possession," is not relevant to the Committee's inquiry. Regardless of whether all exculpatory evidence has already been or will be produced to the defense, Congress has a wholly separate, independent, constitutional oversight interest in the information. It might not be in the interests of either the defendant or the prosecutors to disclose facts inconsistent with the plea agreement. However, it would absolutely be in the interest of Congress and the American people to be aware of any such inconsistencies that may exist. Congress needs to see the underlying evidence itself, not merely the conclusions about the evidence that prosecutors and a defendant have agreed to describe publicly.

This is no ordinary criminal case. It is at the heart of a political firestorm over the President's alleged statements about it to the former FBI Director, whom he later dismissed. Congress has a right to know the full story and to know it now.

Presuming that the facts are consistent with the plea agreement, there is absolutely nothing for the Department to hide and no reason to act like it has something to hide. Resisting Congressional oversight only serves to further undermine public trust in the Department. By contrast, cooperation could enhance public trust in the Department by demonstrating that its work can withstand independent scrutiny. The lack of transparency feeds public skepticism about the Department's actions regarding Lt. General Flynn and related matters. For example, a summary of Lt. General Flynn's intercepted calls with the Russian ambassador was illegally leaked to the media, presumably by a current or former government official. One of the FBI agents who reportedly conducted the interview of Lt. General Flynn, Peter Strzok, was later removed from the Russia investigation after his texts demonstrating animus and bias toward Mr. Trump were uncovered. Additionally, former Director McCabe was fired for lack of candor regarding a leak to the *Wall Street Journal*, and Lt. General Flynn was an adverse witness in a pending sexual discrimination case against Mr. McCabe at the time Mr. McCabe was supervising a criminal inquiry targeting Lt. General Flynn.¹

Former Director Comey also has made public statements about the FBI's actions regarding Lt. General Flynn on his book tour that contradict his previous descriptions to this Committee and the House Intelligence Committee while he was FBI Director. Moreover, newly released information tends to support the version of events former Director Comey relayed to the congressional committees. According to a memorandum drafted by the President's attorneys, the White House Counsel's office believed there was likely no ongoing investigation of Flynn at the time it was briefed by the Department of Justice about Flynn's FBI interview, and 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."² The memorandum describes both incidents in detail. Those

¹ 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)

² *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->

incidents, along with the interactions between the Department and White House Counsel, as described by the President's attorneys, do not seem to square with the current popular narrative. Thus, regardless of Lt. General Flynn's underlying conduct, the FBI's conduct here is ripe for Congressional oversight.

Finally, it is disingenuous and extremely disturbing that the Department would imply that a request to interview a fact witness, such as Special Agent Pientka, has anything whatsoever to do with "allegations against" that witness. As you well know, seeking information from a fact witness is not the same thing as an allegation of wrongdoing. Quite the contrary, it seems he is likely to be an objective, reliable, and trustworthy witness, which is precisely why the Committee would benefit from his testimony.

Moreover, you also know very well that I am committed to transparency in the Committee's work, and for that reason, I generally post all Committee correspondence, including requests for interviews with government witnesses, on my website so that they are publicly available. Thus, the Department's reference to "Committee staffers" who "chose to release" the letter is an inappropriate and inaccurate deflection from the issue at hand. If the Department has a complaint about the Committee's longstanding policy and practice of publicly posting official correspondence, then please address it directly with me rather than making veiled, uninformed accusations about Committee staff. While I am generally unlikely to make exceptions to my normal policy and practice, the Department has always been free to make a specific request that certain correspondence remain private for a period of time, for good cause. In this case, it did not do so.

Please let me know when you will provide the requested documents, so that we can begin scheduling an interview with Special Agent Pientka. Thank you for your prompt attention to this important matter.

Sincerely,



Charles E. Grassley
Chairman

cc: The Honorable Dianne Feinstein
Ranking Member

CHUCK GRASSLEY, IOWA, CHAIRMAN

MIKE CRAPO, IDAHO
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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

KOLAN DAVIS, STAFF DIRECTOR AND CHIEF COUNSEL
JOSHUA SHEINKMAN, DEMOCRATIC STAFF DIRECTOR

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.¹ 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,"² 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

¹ 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)

² *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>.