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

March 28, 2017

VIA ELECTRONIC TRANSMISSION

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

Dear Director Comey:

At your speech last Thursday at the University of Texas, you referenced former FBI Director J. Edgar Hoover's short letter to Attorney General Robert Kennedy, which sought authorization for FBI surveillance of Dr. Martin Luther King Jr. without any proper basis for doing so. You mentioned that you keep this letter on your desk, and place FISA applications awaiting your review on top of it, as a reminder. You cited this to emphasize the importance of oversight over the FBI, even over well-meaning FBI officials, to ensure the propriety of the FBI's actions. You are right to call attention to the importance of such oversight. As Chairman of the Senate Judiciary Committee, it is my constitutional duty to conduct that oversight over the FBI and the Department of Justice.

Pursuant to its authority under the Constitution and the Rules of the Senate, the Committee requires information to determine: (1) the extent to which FBI Deputy Director Andrew McCabe has been involved in the FBI's investigation of President Trump's associates and Russia; (2) whether that involvement raises the appearance a conflict of interest in light of his wife's ties with Clinton associates; and (3) whether Mr. McCabe has been or should be recused from the investigation.

As you know, Mr. McCabe is under investigation by the Department of Justice Office of the Inspector General. That investigation is examining whether the political and financial connections between his wife's Democratic political campaign and Clinton associates warranted his recusal in the FBI's Clinton email investigation. On March 7, 2015, just five days after the *New York Times* broke the story about Secretary Clinton's use of private email for official business, Mr. McCabe met with Virginia Governor Terry McAuliffe, a longtime, close associate of the Clintons—along with his wife, Dr. McCabe. Mr. McAuliffe recruited Dr. McCabe, who had not previously run for any political office, to be the Democratic candidate for a Virginia state senate seat. Dr. McCabe agreed, and

Governor McAuliffe's political action committee subsequently gave nearly \$500,000 to her campaign while the FBI's investigation of Secretary Clinton was ongoing. The Virginia Democratic Party, over which Mr. McAuliffe exerts considerable control, also donated over \$200,000 to Dr. McCabe's campaign. While Mr. McCabe recused himself from public corruption cases in Virginia—presumably including the reportedly ongoing investigation of Mr. McAuliffe regarding illegal campaign contributions—he failed to recuse himself from the Clinton email investigation, despite the appearance of a conflict created by his wife's campaign accepting \$700,000 from a close Clinton associate during the investigation.

You have publicly stated that the people at the FBI “don't give a rip about politics.”¹ However, the fact is that the Deputy Director met with Mr. McAuliffe about his wife's run for elected office and she subsequently accepted campaign funding from him. The fact is that the Deputy Director participated in the controversial, high-profile Clinton email investigation even though his wife took money from Mr. McAuliffe. These circumstances undermine public confidence in the FBI's impartiality, and this is one of the reasons that many believe the FBI pulled its punches in the Clinton matter. FBI's senior leadership should never have allowed that appearance of a conflict to undermine the Bureau's important work. The Department of Justice Office of the Inspector General is now investigating that matter, as part of the work it announced on January 12, 2017.

Last week, you publicly testified that in late July of 2016, the FBI began investigating the Russian government's attempts to interfere in the 2016 presidential election, including investigating whether there was any collusion between individuals associated with the Trump campaign and the Russian government. Given the timing of the investigation and his position, it is likely that Mr. McCabe has been involved in that high-profile, politically charged inquiry as well. If Mr. McCabe failed to avoid the appearance of a partisan conflict of interest in favor of Mrs. Clinton during the presidential election, then any participation in this inquiry creates the exact same appearance of a partisan conflict of interest against Mr. Trump. As you testified last week, you believe that if someone had a bias for or against one of them, he would have the opposite bias toward the other: “they're inseparable, right; it's a two person event.”

According to public reports, the FBI agreed to pay the author of the unsubstantiated dossier alleging a conspiracy between Trump associates and the Russians. It reportedly agreed to pay the author, Christopher Steele, to continue investigating Mr. Trump. Clinton associates reportedly paid Mr. Steele to create this political opposition research dossier against Mr. Trump. The FBI has failed to publicly reply to my March 6 letter asking about those reports. That leaves serious questions about the FBI's independence from politics unanswered.

Mr. McCabe's appearance of a partisan conflict of interest relating to Clinton associates only magnifies the importance of those questions. That is particularly true if Mr. McCabe was involved in approving or establishing the FBI's reported arrangement with Mr. Steele, or if Mr. McCabe vouched for or otherwise relied on the politically-funded dossier in the course of the investigation. Simply put, the American people should know if the FBI's second-in-command relied on Democrat-funded opposition research to justify an investigation of the Republican presidential campaign. Full disclosure is especially important since he is already under investigation for failing to recuse himself from the Clinton matter due to his partisan Democrat ties.

¹ Evan Perez, *FBI Chief on Clinton Investigation: My People 'Don't Give a Rip About Politics'* CNN (Oct. 1, 2015).

The Committee requires additional information to fully understand this situation. Please provide the following information and respond to these questions by April 11, 2017:

1. Has Mr. McCabe been involved in any capacity in the investigation of alleged collusion between Mr. Trump's associates and Russia? If so, in what capacity has he been involved? When did this involvement begin?
2. Has Mr. McCabe been involved in any requests or approvals for physical surveillance, consensual monitoring, searches, or national security letters relating to the investigation? If so, please provide all related documents.
3. In the course of the investigation, has Mr. McCabe been involved in any requests or approvals relating to the acquisition of the contents of stored communications from electronic communication service providers pursuant to the Electronic Communications Privacy Act? If so, please provide all related documents.
4. Has Mr. McCabe been involved in any FISA warrant applications relating to the investigation? If so, in what capacity? Please provide all related documents.
5. In the course of the investigation, has Mr. McCabe, or anyone under his supervision, made any representations to prosecutors or judges regarding the reliability of information in the FBI's possession as part of seeking judicial authorization for investigative tools? Has he or anyone under his supervision made any such representations about the political opposition research dossier compiled by Mr. Steele and Fusion GPS? If so, please explain and provide copies of all relevant documents.
6. Was Mr. McCabe involved in any FBI interactions with Mr. Steele? If so, please explain.
7. Did Mr. McCabe brief or otherwise communicate with anyone in the Obama administration regarding the investigation? If so, who did he brief, and when? Please provide all related documents.
8. Has Mr. McCabe been authorized by the FBI to speak to the media, whether as an anonymous source or otherwise, regarding the investigation? If so, please provide copies of such authorizations. If he was so authorized, to whom did he speak, and when? If he was not authorized to do so, does the FBI have any indication that he nonetheless spoke to the media?
9. To the best of your knowledge, has anyone within the FBI raised concerns within the Bureau that Mr. McCabe appears to have a conflict of interest in the investigation of Trump associates? If so, who raised such concerns, when did they do so, and how did FBI respond?

10. To the best of your knowledge, has anyone within the FBI filed a complaint with the Department of Justice Office of the Inspector General regarding Mr. McCabe's involvement in the investigation?
11. Have personnel from the Department of Justice Office of the Inspector General spoken with you yet as part of that Office's investigation into Mr. McCabe's alleged conflict of interest in the Clinton investigation? If so, did they also raise concerns as to whether Mr. McCabe's alleged partisan conflict would also apply to the investigation of Mr. Trump's associates?
12. Has anyone at FBI, the Department of Justice, or the Department of Justice Office of the Inspector General recommended or requested that Mr. McCabe recuse himself from the investigation of Mr. Trump's associates or from any ongoing investigations of the Clinton Foundation? If so, what action was taken in response?

I anticipate that your responses to these questions may contain both classified and unclassified information. 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. 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 or instructions on unclassified information unilaterally asserted by the Executive Branch.

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

cc: The Honorable Dianne Feinstein
Ranking Member
Senate Committee on the Judiciary

The Honorable Dana Boente
Acting Deputy Attorney General
United States Department of Justice

The Honorable Michael E. Horowitz
Inspector General
United States Department of Justice