



Congress of the United States
House of Representatives
Washington, DC 20515

November 3, 2017

The Honorable Jefferson B. Sessions III
Attorney General
The Honorable Rod J. Rosenstein
Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Mr. Attorney General and Mr. Rosenstein:

Recently, the Federal Bureau of Investigation (FBI) released a compilation of redacted documents related to certain investigative decisions made in 2016. The documents included a May 2, 2016, email containing what purports to be a draft of former Director James Comey's July 5, 2016, statement. If the May 2, 2016, email is, in fact, a draft of the July 5, 2016, public statement, the draft was created more than two months before former Director Comey's public statement regarding charging decisions in the investigation surrounding former Secretary of State Hillary Clinton's private email server.¹

According to the FBI, investigators conducted more than two dozen interviews between May 2 and July 5, 2016, including the interview of Secretary Clinton. The existence of a draft of former Director Comey's statement, authored *before* the FBI had completed key interviews, raises concerns about when charging decisions were made. It also raises questions about the public reasons offered by the former Director of the FBI's decision to appropriate the charging decisions away from the Department of Justice prosecutors, who are traditionally the only officials in our structure of government tasked with making prosecution decisions. Our Committees have no interest in reviewing the decision not to charge; however, it is important to understand how the decision was made, when the decision was made, and to better understand the FBI's reasons for announcing charging decisions rather than the more traditional role played by prosecutors at Main Justice.

In addition, the Committees seek to understand the FBI's decisions in key areas:

- The decision to publicly announce the investigation into former Secretary Clinton's handling of classified information but not to publicly announce the investigation into campaign associates of then-candidate Donald Trump;

¹ *Drafts of Director Comey's July 5, 2016 Statement Regarding Email Server Investigation Part 01 of 01, FOI/PA# 1354262-0, FBI RECORDS: THE VAULT, FED. BUREAU OF INVESTIGATION, <https://vault.fbi.gov/drafts-of-director-comeys-july-5-2016-statement-regarding-email-server-investigation> (posted Oct. 16, 2017)*

- The decision to notify Congress by formal letter of the status of the investigation both in October of 2016 and November of 2016 and whether other less public options were considered;
- The decision to appropriate full decision-making in respect to charging or not charging former Secretary Clinton to the FBI rather than the Department of Justice; and
- The FBI's timeline in respect to charging decisions.

The impartiality of our justice system is the foundation of our republic and our fellow citizens must have confidence in its objectivity, independence, and evenhandedness. No entity or individual is above scrutiny. When new facts come to light, it is incumbent upon investigators to follow them wherever they lead. Multiple Members of our Committees have requested an investigation into these unresolved matters, a responsibility in our system of separation of powers that is incumbent on Congress to provide. To date, that information has not been provided to the satisfaction of the Members of our respective Committees or the broader Congress.

In order to help the Committees answer these questions and better understand the reasoning behind decisions made at the Department of Justice and FBI in 2016, please provide the following documents and information:

1. All documents and communications referring or relating to the investigation into former Secretary Clinton to or from the FBI's Office of the Director and the FBI's Office of the Deputy Director between January 1, 2016, and November 8, 2016;
2. All documents and communications referring or relating to the decision or recommendation not to charge former Secretary Clinton dated, created, or modified between January 1, 2016, and November 8, 2016, including unredacted copies of the documents and emails posted or referenced on the FBI's Electronic FOIA Library on October 16, 2017, titled *Drafts of Director Comey's July 5, 2016 Statement Regarding Email Server Investigation*;
3. All documents and communications referring or relating to former Director Comey's decision to appropriate the charging decision from the Department of Justice;
4. All documents and communications referring or relating to former Director Comey's decision to make a public statement on July 5, 2016;
5. All documents and communications referring or relating to former Director Comey's decision to inform Congress regarding the status of the investigation on October 28, 2016, and November 6, 2016; and
6. A list of all personnel who participated in deliberations concerning the charging decision.

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Please provide the requested documents and information as soon as possible, but no later than 5:00 p.m. on November 17, 2017. An attachment to this letter provides additional instructions for responding to the Committees' request. Should your response necessitate production of classified documents or information, please provide those as an appendix to your response letter under separate cover.

Please contact Carlton Davis of the Committee on Oversight and Government Reform at (202) 225-5074 or Robert Parmiter of the Committee on the Judiciary at (202) 225-3951 with any questions about this request. Thank you for your attention to this matter.

Sincerely,



Bob Goodlatte
Chairman
Committee on the Judiciary



Trey Gowdy
Chairman
Committee on Oversight and
Government Reform



Ken Buck
Member of Congress



Jim Jordan
Member of Congress



Mark Meadows
Member of Congress



John Ratcliffe
Member of Congress

Enclosure

cc: The Honorable John Conyers, Jr., Ranking Member
Committee on the Judiciary

The Honorable Elijah E. Cummings, Ranking Member
Committee on Oversight and Government Reform

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.