

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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March 1, 2019

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Mr. Attorney General:

Reports suggest that Special Counsel Mueller's investigation is approaching its conclusion.¹ In the 21 months since its inception, we have learned more about the salacious Steele dossier, the packet of political opposition research that was crucial for the FBI's investigation and later passed to the Special Counsel's Office.² The American people's confidence in the integrity of this work must be beyond reproach. We write to request information about the actions of two senior members of the Special Counsel's Office, Andrew Weissmann and Zainab Ahmad, and their knowledge of the information in the Steele dossier in 2016.

In 2016, prior to the presidential election, both Weissmann and Ahmad were part of a small group of Justice Department officials communicating with then-Associate Deputy Attorney General Bruce Ohr about the anti-Trump dossier information collected by an FBI source, Christopher Steele. According to Ohr, Steele was "desperate" to prevent then-candidate Donald Trump from becoming President—a bias Ohr communicated to the FBI.³ Ohr testified he also conveyed Steele's information to Weissmann and Ahmad in 2016—well before Special Counsel was appointed.⁴

This development raises questions about the impartiality and independence of Weissmann and Ahmad as senior members of the Special Counsel's investigation. We write to determine what steps both Weissmann and Ahmad took to apprise Special Counsel Robert S.

¹ Evan Perez et al., *Justice Department preparing for Mueller report as early as next week*, CNN (Feb. 20, 2019).

² Peter Strzok Transcribed Interview 293-294, June 27, 2018 ("Mr. Jordan. I'm not asking about the special counsel - - we've been through this -- I'm not asking about the special counsel investigation. I'm asking about what you all did in the Russia investigation that was launched in late July. I want to know when you first had access to the dossier and when you first looked at it. [FBI Attorney]: The FBI investigation was subsumed into the special counsel's investigation. So anything that Mr. Strzok did on the investigation while it was under the FBI's purview would still be a part of the special counsel investigation.").

³ Bruce Ohr Transcribed Interview 124, Aug. 28, 2018

⁴ See Bruce Ohr Transcribed Interview at 118.

Mueller III and the Justice Department of their contacts with Ohr and the substance of those meetings before their assignment to the Special Counsel's Office.

Standards for the appointment of a Special Counsel

Under federal regulations governing the appointment of a special counsel, the Attorney General should appoint a special counsel when he or she determines an investigation by the Department of Justice “would present a conflict of interest for the Department” and “it would be in the public interest” for the investigation to occur outside of the normal chain of command.⁵ The special counsel must be:

a lawyer with a reputation for integrity and *impartial decisionmaking*, and with appropriate experience to ensure both that the investigation will be conducted ably, expeditiously, and thoroughly, and that investigative and prosecutorial decisions will be supported by an informed understanding of the criminal law and Department of Justice policies.⁶ (emphasis added).

In naming Mueller as Special Counsel in May 2017, Deputy Attorney General Rod Rosenstein emphasized the need for public confidence, explaining that “a Special Counsel is necessary in order for the American people to have full confidence in the outcome” of the investigation.⁷

Since beginning our investigation in October 2017, we have obtained evidence of political bias and self-described “unusual” conduct within the Department raising questions about the independence of the Special Counsel's Office.⁸ We learned several employees of the Special Counsel's Office are affiliated with political opponents of President Trump.⁹ Candid text messages exchanged by fired FBI special agent Peter Strzok—formerly an investigator with the Special Counsel's team—and his co-worker, Lisa Page—who also briefly worked for the Special Counsel—show a clear bias against Trump. The pair went so far as to discuss “stop[ping]” Trump from becoming President and having an “insurance policy” in case of a Trump presidency.¹⁰ Ohr's testimony now raises additional questions about Weissmann and Ahmad.

⁵ 28 CFR § 600.1

⁶ 28 CFR § 600.3

⁷ Press Release, U.S. Dep't of Justice, Appointment of a Special Counsel (May 17, 2017).

⁸ James Baker Transcribed Interview 53, Day 2, Oct. 18, 2018 (“It was unusual for me to be the recipient of information directly from the public or a lawyer or anyone else about an allegation of a crime.”); Bruce Ohr Transcribed Interview at 42-43; *see generally* Dep't of Justice document production to Committee on Oversight and Gov't Reform (Jan. 19, 2018) (text messages exchanged between Peter Strzok and Lisa Page) (on file with the committee).

⁹ *See* Matt Zapotosky, *Trump said Mueller's team has '13 hardened Democrats.' Here are the facts.*, WASH. POST, (March 18, 2018); Allan Smith, *Robert Mueller's 'pit bull' is coming under scrutiny over perceived anti-Trump bias*, BUSINESS INSIDER (Dec. 9, 2017) (“Andrew Weissmann, was reportedly in attendance at former Democratic presidential nominee Hillary Clinton's election night party...”).

¹⁰ INSPECTOR GEN., DEP'T OF JUSTICE, *A Review of Various Actions by the Federal Bureau of Investigation and Department of Justice in Advance of the 2016 Election*, 404-405 (2018).

Ohr informed Weissmann and Ahmad in 2016 about his conversations with Steele

Ohr testified that from August 2016 through November 2017—months after the Special Counsel’s investigation began—Steele delivered anti-Trump information directly to Ohr.¹¹ Ohr also received anti-Trump political opposition research from the head of Fusion GPS, Glenn Simpson, and Ohr’s wife, Nellie, a contractor with Fusion GPS. Ohr passed this information on to the FBI, and informed them about the sources’ biases, including Steele’s disdain for Trump:

Mr. Ratcliffe. We’ve talked about the relevant facts that the FBI and the Department of Justice was aware of. Were they also – one that I didn’t ask you about – they were also aware of Mr. Steele’s bias against Donald Trump, were they not?

Mr. Ohr. I provided information to the FBI when I thought Christopher Steele was, as I said, desperate that Trump not be elected. So, yes, of course, I provided that to the FBI.

Mr. Ratcliffe. Yes. And so were the Department of Justice and the FBI also aware of Glenn Simpson's bias against Donald Trump?

Mr. Ohr. I certainly told the FBI that Fusion GPS was working with – doing opposition research on Donald Trump.¹²

* * *

Mr. Ohr. Right. So just, again, to reiterate, when I spoke with the FBI, I told them my wife was working for Fusion GPS. I told them Fusion GPS was doing research on Donald Trump. You know, I don’t know if I used the term opposition research, but certainly that was my – what I tried to convey to them.

I told them this is the information I had gotten from Chris Steele. At some point, and I don’t remember exactly when, I don’t think it was the first conversation, I told them that Chris Steele was desperate that Donald Trump not get elected. So those are all facts that I provided to the FBI.¹³

Ohr also told his then-Department colleagues, and future Special Counsel prosecutors, Weissmann and Ahmad, about his interactions with Fusion GPS and Steele:

¹¹ Bruce Ohr Transcribed Interview at 211 (“Mr. Jordan. Did you continue to meet with the FBI to discuss your conversations with Mr. Steele all the way up through late November of 2017? Mr. Ohr. Correct.”). *see also id.* at 128-29.

¹² Bruce Ohr Transcribed Interview at 124.

¹³ *Id.* at 125.

Mr. Gowdy. Who at the Department knew that you were talking to Chris Steele and Glenn Simpson?

Mr. Ohr. I spoke with some people in the Criminal Division, other career officials who dealt with some of these matters. So –

Mr. Gowdy. Any of them have names?

Mr. Ohr. Yes. So I was about to tell you. One of them Bruce Swartz, who is the Counselor for International Affairs in the Criminal Division; a person who was working with him at the time, working on similar matters in the Criminal Division was Zainab Ahmad; and a third person who was working on some – some of these matters I believe was Andrew Weissmann.¹⁴

* * *

Mr. Ohr. Then in the fall sometime, if could have been September, but I don't recall precisely, I met with Lisa Page, Peter Strzok, and the three people I previously mentioned from the criminal division [Weissmann, Ahmad, and Swartz]. I don't believe I gave them any documents at that time... I remember, though . . . I had prepared some summaries of the conversations I had had with Mr. Steele and with Mr. Simpson up to that time . . . I certainly prepared the documents with the intention of sharing that information and offering them the documents if they wanted it.¹⁵

* * *

Mr. Ohr. . . . I think I conveyed some of the substance of the same [FBI] conversations to Mr. Swartz, Ms. Zainab, and at least on one occasion Mr. Weissmann would have been present, but I don't recall specifically.¹⁶

Ohr testified he believed Steele's materials were so "scary" and "inflammatory" he shielded it from his Department supervisors but trusted his peers, Weissmann and Ahmad, to "evaluate the information" and "do any necessary follow up."¹⁷ According to Ohr, Weissmann

¹⁴ Bruce Ohr Transcribed Interview at 36

¹⁵ Bruce Ohr Transcribed Interview at 189-190.

¹⁶ *Id.* at 192-193.

¹⁷ Bruce Ohr Transcribed Interview at 87, 140; *see id.* at 39 ("Mr. Gowdy. Did any of your supervisors at the Department know? I think the others you described were more peers. Mr. Ohr. Right.").

and Ahmad were apprised of issues surrounding the case and positioned to be aware of Steele's desperation to prevent Trump from winning.¹⁸ Ohr continued to provide the FBI with Steele's information as late as November 2017—a full year after the FBI stopped using Steele as a source.¹⁹

Weissmann and Ahmad may not be independent

The mission of the Justice Department is to “ensure the fair and impartial administration of justice....”²⁰ The Supreme Court has advised that federal prosecutors are “not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as [their] obligation to govern at all....”²¹ Weissmann's and Ahmad's receipt of biased information before their appointment to the Special Counsel's Office puts into question their impartiality, the very reason for establishing an independent Special Counsel investigation.²²

Weissmann and Ahmad are veteran Department prosecutors with extensive experience prosecuting high-profile cases.²³ Weissmann has served various leadership roles in the Department including FBI General Counsel and chief of the Department's Criminal Division Fraud Section.²⁴ Ahmad has prosecuted over a dozen extraterritorial terrorism cases—an intricate process tasked to just a few prosecutors.²⁵ As seasoned Department personnel, they likely know their professional responsibility to assure potentially compromising information is relayed directly to appropriate ethics personnel to avoid even the appearance of bias.²⁶

We do not know whether Weissmann or Ahmad disclosed their role in Ohr's transmission of information from Fusion GPS and Steele to the Department before or during their appointment to the Special Counsel's team. As the Department's Inspector General noted, the appearance of bias raises questions “about the objectivity and thoroughness” of an

¹⁸ *See id.* at 79-81 (“Ohr: That was part of the purpose of the meeting. I think the [DOJ] criminal division officials also wanted to make sure that the criminal and national security parts of the FBI were talking or communicating. Committee Counsel: So in other words, there was a desire to have the people with the right portfolios in the room on the same page, to have the same information. Is that -- Ohr: I believe that's -- yes.”); *id.* at 87, 116-119, 125, 133, 140.

¹⁹ *Id.* at 233.

²⁰ *Dep't of Justice Mission Statement*, <https://www.justice.gov/about> (last visited Feb. 20, 2019).

²¹ *Berger v. United States*, 295 U.S. 78, 88 (1935).

²² 28 CFR § 600.3.

²³ Press Release, Dep't of Justice, Andrew Weissmann Selected as Chief of Criminal Division's Fraud Section (Jan. 9, 2015); William Finnegan, *Taking Down Terrorists in Court*, THE NEW YORKER (May 15, 2017).

²⁴ Press Release, Dep't of Justice, Andrew Weissmann Selected as Chief of Criminal Division's Fraud Section (Jan. 9, 2015).

²⁵ *See* William Finnegan, *Taking Down Terrorists in Court*, THE NEW YORKER (May 15, 2017).

²⁶ U.S. DEP'T OF JUSTICE, UNITED STATES ATTORNEYS' MANUAL 1-4.010 (“...an employee should contact his/her Ethics Advisor when he/she: ... (3) is asked to participate in a matter that might cause a reasonable person to question his/her impartiality...”).

investigation.²⁷ Former FBI special agent Peter Strzok testified Special Counsel Mueller justified firing him because his biased texts compromised the appearance of impartiality: “My recollection was there was a sense of regret. There was a sense that Special Counsel Mueller absolutely wanted to run an investigation that was not only independent but also presented the *appearance* of independence, and the concern that these texts might be construed otherwise.”²⁸


We seek to learn whether Weissmann and Ahmad disclosed their role in the transmission of anti-Trump information from Fusion GPS and Steele to the Department as part of their appointment to the Special Counsel’s team. To better understand how the Department and the Special Counsel’s office evaluated these issues, we additionally ask you provide some basic information about the Department’s and the Special Counsel’s evaluation processes. Please provide the following information:

1. Identify all actions taken by Weissmann and Ahmad, including disclosures, to apprise the Department or the Special Counsel’s Office of their role in the events Bruce Ohr testified to about supplying the FBI with information relating to the Trump campaign;
2. Explain all actions taken by Weissmann and Ahmad after learning Steele, Simpson, and Nellie Ohr were providing Bruce Ohr information for the purpose of relaying it to the FBI;
3. Provide all documents and communications referring or relating to disclosures made by Weissmann and Ahmad as part of their appointment to the Special Counsel’s Office; and
4. Provide all documents and communications related to the process that the Department used to evaluate prosecutors’ and investigators’ independence to serve in the Special Counsel’s Office.

Please provide this information as soon as possible, but no later than 5:00 p.m. on March 15, 2019. If you have any questions, please ask your staff to contact Committee staff at (202) 225-5074. Thank you for your attention to this matter.


Jim Jordan
Ranking Member

Sincerely,


Mark Meadows
Ranking Member
Subcommittee on Government Operations

²⁷ See INSPECTOR GEN., DEP’T OF JUSTICE, *A Review of Various Actions by the Federal Bureau of Investigation and Department of Justice in Advance of 2016 Election*, 497, (2018).

²⁸ Peter Strzok Transcribed Interview 39, June 27, 2018 (emphasis added).

The Honorable William P. Barr

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cc: The Honorable Elijah E. Cummings, Chairman, Committee on Oversight and Reform
The Honorable Doug Collins, Ranking Member, Committee on the Judiciary
The Honorable Devin Nunes, Ranking Member, Permanent Select Committee on
Intelligence
The Honorable Lindsey Graham, Chairman, U.S. Senate Committee on the Judiciary
The Honorable Ron Johnson, Chairman, U.S. Senate Committee on Homeland Security
and Governmental Affairs
The Honorable Michael E. Horowitz, Department of Justice Office of Inspector General