

United States Senate
WASHINGTON, DC 20510

May 19, 2020

VIA ELECTRONIC TRANSMISSION

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

Dear Ambassador Grenell:

On May 13, 2020, you provided us with declassified information related to the “unmasking” of Lt. General Michael Flynn, and we very much appreciate your continued commitment to transparency.¹ We write now both to reiterate our request for the declassification of additional information related to the unmasking of Americans around the time of the 2016 election, but also to expand the scope of our request to include information as early as January 2016. Based on our investigation and recent press reports, we are increasingly concerned that the surveillance of U.S. persons affiliated with the Trump campaign began earlier than the opening of the FBI’s Crossfire Hurricane investigation in late July 2016.²

As we explained in our May 12, 2020, letter to you, one of the most significant unanswered questions about what occurred during the 2016 election is how many Americans were “unmasked,” at whose request, and for what purpose.³ It has become evident that the FBI, and possibly members of the U.S. Intelligence Community, were focused on U.S. persons affiliated with the Trump campaign in early 2016, if not even earlier.⁴ One example is that, in April 2016, FBI headquarters directed its New York Field Office to open a counterintelligence investigation of Carter Page, which on August 10, 2016, became part of the Crossfire Hurricane investigation.⁵

¹ Letter from Richard A. Grenell, Acting Director, Office of the Director of National Intelligence, to Chairman Charles E. Grassley and Chairman Ron Johnson, May 13, 2020.

<https://www.grassley.senate.gov/sites/default/files/2020-05-13%20ODNI%20to%20CEG%20RHJ%20%28Unmasking%29.pdf>.

² See, e.g., Andrew McCarthy, *Unmasking? The Real Story Is When Flynn Was Not Masked in the First Place*, Nat’l Review, May 16, 2020, <https://www.nationalreview.com/2020/05/michael-flynn-unmasking-real-story-is-when-he-was-not-masked-in-the-first-place/>.

³ Ron Johnson, *We need answers to questions mainstream media won’t ask about Democrats*, The Hill, Oct. 10, 2019, <https://thehill.com/blogs/congress-blog/politics/465241-we-need-answers-to-questions-mainstream-media-wont-ask-about>; Letter from Chairman Grassley, Ranking Member Feinstein, Senator Graham, Senator Whitehouse to Director Coats (May 27, 2017); Letter from Chairman Grassley to Attorney General Barr and Acting Director Grenell (May 12, 2020).

⁴ McCarthy, *supra* note 1 (alleging that “several strands of the Trump-Russian probe ... trace back to 2015”).

⁵ U.S. Dep’t of Justice, Office of Inspector Gen., Review of Four FISA Applications and Other Aspects of the FBI’s Crossfire Hurricane Investigation 62-63 (Dec. 2019), <https://www.justice.gov/storage/120919-examination.pdf>.

Again, the best way to resolve these issues is to determine the truth, and to make clear to the American people what did and did not occur. For these reasons, we respectfully request that you make available to us, as soon as possible, all information regarding the “unmasking” of U.S. persons affiliated with the Trump campaign requested by members of President Obama’s administration from January 2016 through January 2017. If this request needs to be responded to in tranches, we would appreciate receiving unmasking information relating to the period of April through June 2016 first.

Should you have any questions, please contact Joseph Folio of Chairman Johnson’s staff at (202) 224-4751 and Joshua Flynn-Brown of Chairman Grassley’s staff at (202) 224-4515. Thank you for your attention to this matter.

Sincerely,



Ron Johnson
Chairman
Senate Committee on Homeland Security
and Governmental Affairs



Charles E. Grassley
Chairman
Senate Finance Committee

cc: The Honorable Gary C. Peters
Ranking Member

The Honorable Ron Wyden
Ranking Member

U.S. SENATOR DIANNE FEINSTEIN
CALIFORNIA



COMMITTEE ON THE JUDICIARY - RANKING MEMBER
SELECT COMMITTEE ON INTELLIGENCE
COMMITTEE ON APPROPRIATIONS
COMMITTEE ON RULES AND ADMINISTRATION

United States Senate

May 22, 2020

John Ratcliffe
Director of National Intelligence
Office of the Director of National
Intelligence
Washington, D.C. 20511

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

Dear Director Ratcliffe and Attorney General Barr:

Your offices recently declassified and produced a list of individuals who requested to “unmask” the identity of a U.S. person – Lt. General Michael Flynn – who was referenced in certain foreign intelligence reports. In addition, your offices have been asked to produce a list of individuals who may have received the names of additional Trump campaign and transition officials in response to an unmasking request.

I request that you also declassify and produce the underlying intelligence reports and other materials related to those unmasking requests. Specifically, I ask that you provide the Committee with:

1. All intelligence reports as to which officials made an unmasking request that revealed General Flynn’s name, as listed in the document you provided to Senators Grassley and Johnson on May 13, 2020.
2. The transcripts of General Flynn’s phone calls with Russian Ambassador Sergey Kislyak and any FBI reports summarizing their calls, which Senator Grassley and I requested in February 2017, as well as any other intelligence reports concerning these conversations.
3. To the extent you identify other unmasking requests responsive to Chairman Graham’s May 19, 2020 letter, the intelligence reports as to which officials made each request.

Thank you for your prompt attention to this request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dianne Feinstein". The signature is fluid and cursive, with a large initial "D" and a long horizontal stroke at the end.

Dianne Feinstein
Ranking Member
Senate Committee on the Judiciary

cc: The Honorable Lindsey O. Graham
Chairman, Senate Committee on the Judiciary

United States Senate

WASHINGTON, DC 20510

May 22, 2020

VIA ELECTRONIC TRANSMISSION

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

Dear Ambassador Grenell:

On December 30, 2016, the Intelligence Community produced an assessment titled, “Assessing Russian Activities and Intentions in Recent US Elections” (Assessment).¹ The Assessment contained classified annexes² that provided greater detail into the Intelligence Community’s process in producing the Assessment and “full supporting information on key elements of the influence campaign.”³ At the insistence of the Federal Bureau of Investigation (FBI), a summary of the reporting created by Christopher Steele was included in Annex A.⁴ A declassified version of the Assessment was made available on January 6, 2017.⁵

On March 22, 2018, the House Permanent Select Committee on Intelligence (HPSCI) produced its report that, in part, analyzed the Assessment titled, “Report on Russian Active Measures.” A declassified version of this report has not been made public.

In light of the continuing public interest in the Intelligence Community’s Assessment, we request that the classified annexes to the Assessment and the HPSCI report be declassified to the fullest extent possible.

Sincerely,



Charles E. Grassley
Chairman
Committee on Finance



Ron Johnson
Chairman
Committee on Homeland Security
and Governmental Affairs

¹ U.S. Senate Select Comm. on Intelligence, Russian Active Measures Campaigns and Interference in the U.S. 2016 Election. Vol 4: Review of the Intelligence Community Assessment 6 (Apr. 21, 2020), https://www.intelligence.senate.gov/sites/default/files/documents/Report_Volume4.pdf.

² *Id.* at 4-5.

³ Office of the Dir. Of Nat’l Intelligence, Intelligence Cmty. Assessment: Assessing Russian Activities and Intentions in Recent U.S. Elections (Jan. 6, 2017), https://www.dni.gov/files/documents/ICA_2017_01.pdf.

⁴ U.S. Dep’t of Justice, Office of Inspector Gen., Review of Four FISA Applications and Other Aspects of the FBI’s Crossfire Hurricane Investigation 177-82 (Dec. 2019), <https://www.justice.gov/storage/120919-examination.pdf>.

⁵ Office of the Dir. Of Nat’l Intelligence, Intelligence Cmty. Assessment: Assessing Russian Activities and Intentions in Recent U.S. Elections (Jan. 6, 2017), https://www.dni.gov/files/documents/ICA_2017_01.pdf.

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

May 19, 2020

The Honorable Richard Grenell
Acting Director of National Intelligence
Office of the Director of National Intelligence

The Honorable William P. Barr
Attorney General
U.S. Department of Justice

Dear Ambassador Grenell and Attorney General Barr,

As you are aware, on May 13, 2020, the Office of the Director of National Intelligence released a list of the identity of any official who submitted a request to the National Security Agency at any point between November 8, 2016, and January 31, 2017, to unmask the identity of former National Security Advisor, Lieutenant General Michael T. Flynn (Ret.). That list contained the identities of 39 officials who made requests to unmask General Flynn's identity.

Given the extensive number of requests for the unmasking of General Flynn's name during this short time period, it raises the question of whether these or other officials sought the unmasking of the identities of other individuals associated with the Trump campaign or transition team. Accordingly, I request that the Committee be provided with a list of the names of any officials who requested, between November 8, 2016, and January 31, 2017, to unmask the identities of those associated with the Trump campaign or transition team, including but not limited to Donald Trump, Donald Trump, Jr., Ivanka Trump, Jared Kushner, Corey Lewandowski, Paul Manafort, Steve Bannon, Kellyanne Conway, Sam Clovis, Chris Christie, Carter Page, and George Papadopoulos, and the reason given for any such request. In addition, I request an explanation as to why the list released on May 13th did not contain a record showing who unmasked General Flynn's identity for his phone call with Ambassador Kislyak.

Should you have any questions regarding this request, please have your staff contact Zachary Somers with my committee staff at (202) 224-5445. Thank you for your prompt attention to this matter.

Sincerely,



Lindsey O. Graham
Chairman

cc: The Honorable Dianne Feinstein

UNCLASSIFIED

United States Senate
WASHINGTON, DC 20510

April 2, 2020

VIA ELECTRONIC TRANSMISSION

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

Dear Ambassador Grenell:

On January 28, 2020, we sent a classified letter to Attorney General Barr requesting that he declassify four footnotes that we identified after reviewing the Justice Department Inspector General's classified report on the Crossfire Hurricane investigation.¹ In the unclassified cover letter, which we have attached hereto, we explained that this classified information provides insight essential for an accurate evaluation of the entire investigation, and the public interest in the disclosure of the information outweighs the need to protect it.

Since sending that letter, we have had very fruitful discussions with the Justice Department. We very much appreciate Attorney General Barr's focus on transparency and his understanding that this important information ought to be public. However, there are several sections of the footnotes that certain members of the Intelligence Community are concerned about declassifying. Accordingly, we are forwarding you our classified letter to Attorney General Barr, and we request that you ensure that all the footnotes are declassified to the fullest extent possible so that the American people have a full understanding of what transpired during the Crossfire Hurricane investigation.

If you have any questions about this request, please contact Joshua Flynn-Brown of Chairman Grassley's staff at (202) 224-4515 or Joseph Folio of Chairman Johnson's staff at (202) 224-4751. Thank you for your attention to this matter.

Sincerely,



Charles E. Grassley
Chairman
Committee on Finance



Ron Johnson
Chairman
Committee on Homeland Security
and Governmental Affairs

¹ U.S. Dep't of Justice, Office of Inspector Gen., Review of Four FISA Applications and Other Aspects of the FBI's Crossfire Hurricane Investigation (Dec. 2019), <https://www.justice.gov/storage/120919-examination.pdf>.

UNCLASSIFIED

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(UNCLASSIFIED when separated from attachment)

United States Senate
WASHINGTON, DC 20510

January 28, 2020

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

Dear Attorney General Barr:

(U) The Committee on Homeland Security and Governmental Affairs and the Committee on Finance are continuing oversight of the Federal Bureau of Investigation (FBI) and its Crossfire Hurricane investigation. We have reviewed the classified report of the Office of the Inspector General (OIG) with regard to the FBI's Crossfire Hurricane investigation, and we are deeply concerned about certain information that remains classified.¹ Specifically, we are concerned that certain sections of the public version of the report are misleading because they are contradicted by relevant and probative classified information redacted in four footnotes. This classified information is significant not only because it contradicts key statements in a section of the report, but also because it provides insight essential for an accurate evaluation of the entire investigation. The American people have a right to know what is contained within these four footnotes and, without that knowledge, they will not have a full picture as to what happened during the Crossfire Hurricane investigation. Congress and the Executive Branch should not be the only custodians of this information and the public interest in the disclosure of the information outweighs the need to protect it.

(U) Consequently, we are writing to respectfully request that you, pursuant to the declassification authority delegated to you by the President over matters related to this investigation, fully declassify the four footnotes to ensure that this information is made available to the American people.² We are enclosing a classified letter that identifies these four footnotes and explains the importance of this information to a complete understanding of the OIG report and the underlying Crossfire Hurricane investigation.

¹ U.S. Dep't of Justice, Office of Inspector Gen., Review of Four FISA Applications and Other Aspects of the FBI's Crossfire Hurricane Investigation (Dec. 2019), <https://www.justice.gov/storage/120919-examination.pdf>.

² Memorandum on Agency Cooperation with Attorney General's Review of Intelligence Activities Relating to the 2016 Presidential Campaigns (May 23, 2019), <https://www.whitehouse.gov/presidential-actions/memorandum-agency-cooperation-attorney-generals-review-intelligence-activities-relating-2016-presidential-campaigns/>.

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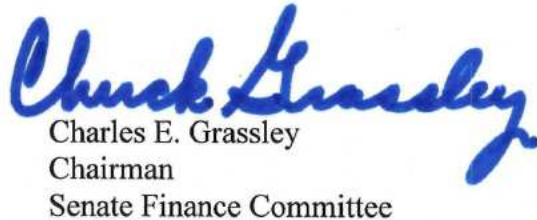
(U) Should you have any questions, please contact Joseph Folio of Chairman Johnson's staff at (202) 224-4751 and Joshua Flynn-Brown of Chairman Grassley's staff at (202) 224-4515.

(U) Thank you for your prompt attention to this matter.

Sincerely,



Ron Johnson
Chairman
Senate Committee on Homeland Security
and Governmental Affairs



Charles E. Grassley
Chairman
Senate Finance Committee

Encl: Classified Letter to Attorney General Barr

cc: The Honorable Gary C. Peters
Ranking Member

The Honorable Ron Wyden
Ranking Member

The Honorable Michael E. Horowitz
Inspector General

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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

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.

Attorney General Sessions and Director Comey
February 15, 2017

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, slightly slanted style.

Charles E. Grassley
Chairman
Committee on the Judiciary

A handwritten signature in blue ink that reads "Dianne Feinstein". The signature is written in a cursive, slightly slanted style.

Dianne Feinstein
Ranking Member
Committee on the Judiciary

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

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JOHN KENNEDY, LOUISIANA		



COMMITTEE ON THE JUDICIARY

2015

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~~
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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 Chief Counsel and Staff Director*

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.

Deputy Attorney General Rosenstein and Director Wray

May 11, 2018

Page 2 of 2

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
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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.

Deputy Attorney General Rosenstein

June 6, 2018

Page 2 of 2

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 experience 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->

Deputy Attorney General Rosenstein

June 6, 2018

Page 2 of 2

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

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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>.

United States Senate
WASHINGTON, DC 20510

May 12, 2020

VIA ELECTRONIC TRANSMISSION

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

The Honorable William P. Barr
Attorney General
U.S. Department of Justice

Dear Ambassador Grenell and Attorney General Barr:

Based on recent press reports, it is our understanding that you conducted a classification review and declassified information related to numerous requests to “unmask” the names of U.S. persons who appeared in certain intelligence reporting around the time of the 2016 election through January 2017.

We wholeheartedly agree that transparency is needed more now than ever. One of the most significant unanswered questions about what occurred during the 2016 election is how many Americans were “unmasked,” at whose request, and for what purpose.¹ Your recent decision to declassify dozens of footnotes from the report of the Department of Justice’s Office of the Inspector General about the investigation of the Trump campaign;² the declassification and disclosure of transcripts of related interviews by the House Intelligence Committee; and the disclosure of exculpatory information related to the prosecution of Lt. General Michael Flynn, paint a more and more troubling picture of the conduct that we have been investigating since 2017. However, we firmly believe that the best way to resolve these issues is to determine the truth, and to make clear to the American people what did and did not occur.

For these reasons, we respectfully request that you make available to us, as soon as possible, all information regarding the “unmasking” of U.S. persons requested by members of President Obama’s administration around the time of the 2016 election through January 2017.

¹ Ron Johnson, *We need answers to questions mainstream media won’t ask about Democrats*, The Hill, Oct. 10, 2019, <https://thehill.com/blogs/congress-blog/politics/465241-we-need-answers-to-questions-mainstream-media-wont-ask-about>; Letter from Chairman Grassley, Ranking Member Feinstein, Senator Graham, Senator Whitehouse to Director Coats (May 26, 2017); Letter from Chairman Grassley to Attorney General Barr and Acting Director Grenell (May 12, 2020).

² Press Release, IG Footnotes: Serious Problems with Dossier Sources Didn’t Stop FBI’s Page Surveillance (Apr. 15, 2020), <https://www.hsgac.senate.gov/media/majority-media/ig-footnotes-serious-problems-with-dossier-sources-didnt-stop-fbis-page-surveillance->.

Should you have any questions, please contact Joseph Folio of Chairman Johnson's staff at (202) 224-4751 and Joshua Flynn-Brown of Chairman Grassley's staff at (202) 224-4515. Thank you for your attention to this matter.

Sincerely,



Ron Johnson
Chairman
Senate Committee on Homeland Security
and Governmental Affairs



Charles E. Grassley
Chairman
Senate Finance Committee

cc: The Honorable Gary C. Peters
Ranking Member

The Honorable Ron Wyden
Ranking Member