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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.

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