

Slaughter, Rebecca Kelly (Schumer)

From: Slaughter, Rebecca Kelly (Schumer)
Sent: Thursday, May 11, 2017 12:17 PM
To: Ramer, Sam (OLA)
Subject: Letter to Mr. Rosenstein
Attachments: CES Letter to Rosenstein 5.11.17 FINAL.pdf

Sam – trying to get an answer from you on the briefing. Meanwhile, I wanted your email to send you this just-finalized letter for Mr. Rosenstein from my boss.

Rebecca Kelly Slaughter
Chief Counsel
CHARLES E. SCHUMER
United States Senate Democratic Leader

(b) (6)

(b) (6)

United States Senate

WASHINGTON, DC 20510-3203

May 11, 2017

The Honorable Rod Rosenstein
Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Mr. Rosenstein,

Over the last three decades of your career at the Department of Justice, you have developed a reputation for integrity and impartiality. That reputation, along with the personal and public commitments you made to me and other Senators that you would be an independent, apolitical actor as Deputy Attorney General, earned you broad bipartisan support in your confirmation vote. And that reputation is now imperiled by your participation in the abrupt dismissal of FBI Director Comey.

Your memorandum to Attorney General Sessions described disagreement with Director Comey's conduct last summer and fall; it was used as the justification for his dismissal this week. However, there is widely reported skepticism that the reasons laid out in your memo are the real basis for the President's decision to fire Director Comey. This skepticism, and indeed all of the circumstances surrounding Director Comey's dismissal just as he was leading an investigation into the Trump administration's and Trump campaign's ties with Russia and President Putin's interference with the 2016 election, have shaken public confidence in the Department, in your leadership, and in the administration of law and justice in our country.

In order to restore the nation's faith in you personally and in our law enforcement system more broadly, the American people must understand more about your role in the President's firing of Director Comey. To that end, please answer the following questions by Monday, May 15th.

1. It was publicly reported that Director Comey last week asked you for additional resources for the investigation into the Trump campaign's connection to Russia. Are these reports accurate?
 - a. Did Director Comey recently provide you with a briefing on this investigation or any other politically sensitive investigation? Please describe the date and circumstances of any such update.
 - b. Did you convey any information provided by Director Comey to Attorney General Sessions or anyone in the Executive Office of the President? Please describe the date and circumstances of any such conveyance.

2. It was reported that the President decided over the weekend to fire Director Comey and summoned you and Attorney General Sessions to the White House to discuss the Director on Monday May 8th. Are these reports accurate?
 - a. Did you meet with the President on Monday, May 8th?
 - b. Were you aware what would be the topic of the meeting before you arrived?
 - c. Did you discuss the topic of the meeting with Attorney General Sessions or anyone in the Executive Office of the President before the meeting?
 - d. Who was present at the meeting?
 - e. Did the President or anyone else tell you the President had made a decision to fire Director Comey?
 - f. Did the President or anyone else ask for a justification to fire Director Comey?
 - g. Did the President or anyone else direct you to write your memo?
3. On Tuesday, May 9th, you sent a memorandum to the Attorney General entitled “Restoring Public Confidence in the FBI.” What were the circumstances that led to the drafting and transmittal of this memo?
 - a. Who participated in the drafting of the memo, including but not limited to its preparation before it was finalized?
 - b. Who provided guidance, in any form whatsoever, on the memo’s contents, style, timing or any other element?
 - c. Who was aware that the memo was being prepared?
 - d. Who reviewed the memo before it was finalized?
 - e. Were you aware when you drafted the memo that it would be used to justify the firing of Director Comey?
 - f. Why does the memo not explicitly call for the Director to be dismissed?
 - g. Was Attorney General Sessions or anyone in the Executive Office of the President involved, in any capacity whatsoever, in the planning, drafting, consideration, review, or transmittal of the memo?
4. Attorney General Sessions recused himself from any role in the investigation of Russia’s involvement in the 2016 elections and the Trump campaign because of his close relationship with the campaign and his own undisclosed contacts with Russian officials. Yet your memorandum is addressed to him and, according to public reporting, he participated in the decision to fire Director Comey. How do you reconcile Attorney

General Sessions's participation with his ethical obligations under the Department's recusal guidelines?

- a. Did you and Attorney General Sessions ever discuss whether it would be improper for him to be involved in the dismissal of the lead investigator of a politically sensitive investigation from which he was recused?
 - b. Did you or anyone else in the Justice Department ever advise Attorney General Sessions not to participate in these discussions or the dismissal?
 - c. Did you seek, or are you aware of anyone else at the Justice Department seeking, advice or counsel about whether it was appropriate for Attorney General Sessions to participate in these discussions or the dismissal?
5. After Director Comey was fired, the White House said that you had initiated the memorandum on your own and that you instigated the decision to remove him. Yet this morning, press reports indicate that you threatened to resign because "the narrative emerging from the White House on Tuesday evening cast [you] as a prime mover of the decision to fire Comey and that the president acted only on [your] recommendation." Are these reports accurate?
- a. Did you object, either to the White House, to Attorney General Sessions, or to anyone else, to the media characterizations of your role in the firing?
 - b. Did you take any steps to correct any inaccuracies in the public record?
 - c. Did you discuss the possibility that you might resign from the Department with anyone?

I look forward to your prompt response to my letter. In addition, I hope you will make yourself available to me and all of my colleagues to answer these and other additional questions that will arise.

Sincerely,



CHARLES E. SCHUMER
Democratic Leader

Cutrona, Danielle (OAG)

From: Cutrona, Danielle (OAG)
Sent: Thursday, May 11, 2017 3:24 PM
To: (b)(6) - Senate email address John Abegg
Subject: FW: FOR POOL DISTRIBUTION // timeline of the President's decision

From: Walters, Lindsay E. EOP/WHO
Sent: Wednesday, May 10, 2017 6:41 PM
To: Walters, Lindsay E. EOP/WHO (b) (6)
Cc: Hicks, Catherine F. EOP/WHO (b) (6)
Subject: FOR POOL DISTRIBUTION // timeline of the President's decision

Hi, All –

For pool distribution. We have received several inquiries to clarify the timeline of the President's decision. We are providing the below information on background.

- The President, over the last several months, lost confidence in Director Comey.
- After watching Director Comey's testimony last Wednesday, the President was strongly inclined to remove him.
- On Monday, the President met with the Attorney General and the Deputy Attorney General and they discussed reasons for removing the Director.
- The next day, Tuesday May 9, the Deputy Attorney General sent his written recommendation to the Attorney General and the Attorney General sent his written recommendation to the President.

Thank you and have a good night.

Non-Responsive Record

From: Smith, Matthew [mailto:(b) (6)]
Sent: Thursday, May 11, 2017 3:27 PM
To: Lucas, Daniel (JMD) <dlucas@jmd.usdoj.gov>; Lynch, Michael K. (JMD) <mklynch@jmd.usdoj.gov>;
Munro, Shannon L. (JMD) <smunro@jmd.usdoj.gov>
Subject: Letter from Mrs. Lowey and Mr. Serrano to AG Sessions on Director Comey Dismissal

Please find attached a letter from Ranking Members Lowey and Serrano on the dismissal of FBI Director Comey.

Thanks,

RODNEY P. FRELINGHUYSEN, NEW JERSEY, CHAIRMAN

HAROLD ROGERS, KENTUCKY
ROBERT B. ADERHOLT, ALABAMA
KAY GRANGER, TEXAS
MICHAEL K. SIMPSON, IDAHO
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STEVEN M. PALAZZO, MISSISSIPPI
DAN NEWHOUSE, WASHINGTON
JOHN R. MOOLENAAR, MICHIGAN
SCOTT TAYLOR, VIRGINIA

Congress of the United States
House of Representatives
Committee on Appropriations
Washington, DC 20515-6015

May 11, 2017

NITA M. LOWEY, NEW YORK
MARCY KAPTUR, OHIO
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SANFORD D. BISHOP, Jr., GEORGIA
BARBARA LEE, CALIFORNIA
BETTY McCOLLUM, MINNESOTA
TIM RYAN, OHIO
C. A. DUTCH RUPPERSBERGER, MARYLAND
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HENRY CUELLAR, TEXAS
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PETE AGUILAR, CALIFORNIA

NANCY FOX
CLERK AND STAFF DIRECTOR

TELEPHONE:
(202) 225-2771

The Honorable Jefferson Sessions
Attorney General
U.S. Department of Justice
Washington, DC 20530

Dear Attorney General Sessions:

We are writing to you regarding this week's announcement of the firing of James Comey, the Director of the Federal Bureau of Investigation (FBI). The timing of this announcement raises a number of important questions to which we, as the Ranking Members of the House Appropriations Committee and its subcommittee on Commerce, Justice, Science, and Related Agencies, need answers. Even though you have publicly stated your recusal from the investigation into the Trump presidential campaign's relationship with the Russian Government, we are concerned that this firing, which you recommended, will inevitably interfere with the FBI's ability to conduct a thorough and impartial investigation into this important matter.

We are deeply disturbed by a report that appeared in yesterday's New York Times, in which four congressional officials told the paper's reporters that "days before he was fired, [Comey] asked the Justice Department for a significant increase in resources for the bureau's investigation into Russia's interference in the presidential election". We conclude that because you have recused yourself from this matter, you should not be participating in any budgetary decisions regarding the resources needed for this investigation, and the FBI should have the ability to communicate directly to Congress regarding the funding needed for this investigation.

We take very seriously our responsibility to provide the Department of Justice with the resources it needs to effectively carry out its mission. We are also committed to exercising strong congressional oversight of the Department to ensure it is dedicated to the fair and impartial administration of justice for all Americans. Toward these ends, we request that you immediately provide us full and candid answers to the following questions:

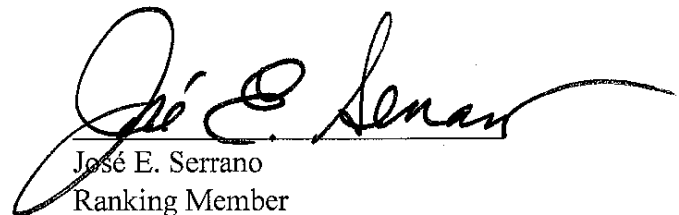
1. When did Director Comey make a request for additional resources related to the investigation into Russia's interference in the 2016 presidential election? Was this request made to you, or to Deputy Attorney General Rod Rosenstein?

2. Did this request entail shifting funds from outside the FBI into the FBI, or did it entail shifting resources from within the FBI budget?
3. To what extent and in what amounts did this request involve resources from fiscal year 2017 appropriations? Prior-year appropriations? The Administration's fiscal year 2018 request?
4. Did you at any point participate in discussions regarding Director Comey's request for additional resources related to the investigation into Russia's interference in the 2016 presidential election? Have you participated in any discussions regarding the resources needed to fully and effectively investigate these matters?
5. At what point did you begin participating in deliberations on whether to recommend Director Comey's dismissal?
6. At what point did other Department of Justice officials or employees begin participating in deliberations on whether to recommend Director Comey's dismissal?
7. Since you have recused yourself from the investigation of former Secretary of State Hillary Clinton relating to her handling of sensitive e-mails, why is it appropriate for you to cite that investigation as a reason for recommending Director Comey's dismissal?
8. Since you have also recused yourself from the investigation into Russia's interference in the 2016 presidential election—an investigation in which Director Comey was involved—why is it appropriate for you to write a memo to the President recommending Director Comey's dismissal, especially before this investigation has been concluded?

We would appreciate your written responses to these questions by no later than May 15, 2017. Thank you for your prompt attention to this important matter.

Sincerely,


Nita M. Lowey
Ranking Member
House Appropriations Committee


José E. Serrano
Ranking Member
Subcommittee on Commerce, Justice,
Science, and Related Agencies

Cc: The Honorable Rod J. Rosenstein, Deputy Attorney General
The Honorable Rodney Frelinghuysen
The Honorable John Culberson

Boyd, Krista

From: Boyd, Krista
Sent: Friday, May 12, 2017 7:02 AM
To: Burton, Faith (OLA)
Subject: Letter from RMs Cummings and Conyers
Attachments: 2017-05-12.EEC Conyers to Rosenstein-DOJ re AG Sessions Recusal.pdf;
ATT00001.htm

Faith,

Attached please find a letter to Deputy Attorney General Rosenstein from Ranking Members Cummings and Conyers.

Thank you, Krista

Congress of the United States
Washington, DC 20515

May 12, 2017

The Honorable Rod Rosenstein
Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C. 20530

Dear Mr. Deputy Attorney General:

We are writing to request your assistance in addressing the crisis of confidence created by Attorney General Jeff Sessions when he participated directly in the decision to fire FBI Director James Comey despite the fact that he previously recused himself from any actions involving the investigations of the Trump and Clinton presidential campaigns.

If the facts now being reported are accurate, it appears that the Attorney General's actions in recommending that President Trump fire Director Comey may have contradicted his sworn testimony before the Senate Judiciary Committee at his confirmation hearing, breached the public recusal he made before the American people, and violated the law enacted by Congress to prevent conflicts of interest at the Department of Justice.

Federal law sets forth as a penalty for recusal violations removal from office, and the Attorney General's violation in this case appears to be particularly grave. Since you are the Acting Attorney General in this particular matter, we call on you to explain the measures that now may be required to mete out appropriate discipline in this case.

The Attorney General's Recusal

On January 10, 2017, the Attorney General testified during his Senate confirmation hearing that he would recuse himself from all matters relating to any investigations involving Secretary Clinton. He stated:

I believe the proper thing for me to do would be to recuse myself from any questions involving those kind of investigations that involve Secretary Clinton and that were raised during the campaign or could be otherwise connected to it.¹

On March 2, 2017, after press accounts reported that the Attorney General testified falsely at that hearing by concealing two meetings he had with the Russian Ambassador, the Attorney General publicly recused himself from all matters relating to the campaigns of both President Trump and Secretary Clinton. He stated:

¹ Senate Committee on the Judiciary, Testimony of Senator Jeff Sessions, Attorney General Nomination (Jan. 10, 2017).

I have decided to recuse myself from any existing or future investigations of any matters related in any way to the campaigns for President of the United States.²

During a press conference that same day, the Attorney General reiterated that he consulted with Department ethics officials about his recusal:

We evaluated the rules of ethics and recusal. I have considered the issues at stake. ... I asked for their candid and honest opinion about what I should do about investigations, certain investigations. And my staff recommended recusal. They said that since I had involvement with the campaign, I should not be involved in any campaign investigation. I have studied the rules and considered their comments and evaluation. I believe those recommendations are right and just.³

Law Governing Recusal Violations

Despite the Attorney General's recusal, the documents released this week by the White House demonstrate that the Attorney General participated directly in the decision-making process that led to the President firing Director Comey, purportedly for his actions relating to the FBI's investigation of Secretary Clinton.

On May 9, 2017, the Attorney General sent a letter to the President recommending that he remove Director Comey "for the reasons expressed by the Deputy Attorney General in the attached memorandum."⁴ In your Memorandum for the Attorney General, you stated that you discussed Director Comey's actions relating to the Clinton investigation directly with the Attorney General. You wrote: "As you and I have discussed, however, I cannot defend the Director's handling of the conclusion of the investigation of Secretary Clinton's emails."⁵

Section 528 of title 28 of the United States Code is entitled, "Disqualification of Officers and Employees of the Department of Justice." In passing this provision, Congress required the Department of Justice to establish regulations to "require the disqualification of any officer or employee of the Department of Justice ... from participation in a particular investigation or

² *Attorney General Sessions Statement on Recusal*, Department of Justice Office of Public Affairs (Mar. 2, 2017) (online at www.justice.gov/opa/pr/attorney-general-sessions-statement-recusal) (plural "campaigns" in original).

³ *Transcript of Jeff Sessions's Recusal News Conference, Annotated*, Washington Post (Mar. 2, 2017) (online at www.washingtonpost.com/news/the-fix/wp/2017/03/02/transcript-of-jeff-sessionss-recusal-press-conference-annotated/?utm_term=.d43fedb5d624).

⁴ Letter from Attorney General Jeff Sessions to President Donald J. Trump (May 9, 2017) (online at www.nytimes.com/interactive/2017/05/09/us/politics/document-White-House-Fires-James-Comey.html?_r=1).

⁵ Memorandum for the Attorney General from the Deputy Attorney General (May 9, 2017) (online at www.nytimes.com/interactive/2017/05/09/us/politics/document-White-House-Fires-James-Comey.html?_r=1).

prosecution if such participation may result in a personal, financial, or political conflict of interest, or the appearance thereof.”⁶

According to this law, the penalty for any Justice Department official who violates such a recusal could be termination. The statute states: “Such rules and regulations may provide that a willful violation of any provision thereof shall result in removal from office.”⁷

In addition to the Attorney General participating in the firing of Director Comey, reports also now suggest that the Attorney General requested a preview of Director Comey’s testimony before the Senate Intelligence Committee in May.⁸ In addition, reports indicate that the Attorney General is currently participating in the evaluation of candidates to serve as Interim FBI Director—who obviously would be responsible for overseeing the pending Russia investigation—which also could constitute a recusal violation.⁹

Request for Report on Proposed Disciplinary Action, Documents and Information

Since the Attorney General previously recused himself from these matters—and since he may not sit in judgment on his own failure to comply with the law—we request that you, as the Acting Attorney General in this matter, report to us on the steps that must now be followed to address this apparent abuse.

In addition, we request that you provide answers to the following questions and produce the documents requested below by May 22, 2017:

- (1) Did the Attorney General consult with Department ethics officials regarding his involvement in the recommendation to fire Director Comey? If so, please provide all documents related to that consultation, including any requests for advice and any advice provided.
- (2) Please provide a full description of the role the Attorney General played in the recommendation and decision to fire Director Comey. Please also provide all documents relating to the Attorney General’s actions in this process, including documents relating to whether the Attorney General or anyone else asked you to review Director Comey’s actions.
- (3) Please provide a full description of the role the Attorney General played or is

⁶ 28 U.S.C. § 528 (online at www.law.cornell.edu/uscode/text/28/528).

⁷ *Id.*

⁸ *Comey Infuriated Trump with Refusal to Preview Senate Testimony*, Reuters (May 11, 2017) (online at www.reuters.com/article/us-usa-trump-comey-decision-idUSKBN1862WP).

⁹ *Despite Recusal Pledge, Sessions Interviewing Candidates for Interim Director*, NPR (May 10, 2017) (online at www.npr.org/2017/05/10/527780171/despite-recusal-pledge-sessions-interviewing-candidates-for-interim-fbi-director).

playing in proposing or evaluating candidates for Interim FBI Director. Please also provide all documents relating to the Attorney General's actions in this process.

- (4) To what extent did the Attorney General discuss with you or anyone else any aspect of Director Comey's actions with respect to the investigation of Secretary Clinton? Please provide all documents referring or relating to these discussions.
- (5) Did the Attorney General ever discuss with you or anyone else any aspect of Director Comey's actions with respect to the investigation of President Trump's campaign? If so, please explain. Please also provide all documents referring or relating to these discussions.
- (6) Did the Attorney General ever discuss with you or anyone else concerns that Director Comey publicly revealed during testimony before the Senate the existence of the FBI's investigation of President Trump's campaign and its ties to Russia? If so, please explain. Please also provide all documents referring or relating to these concerns.
- (7) Did the Attorney General ever discuss with you or anyone else concerns that Director Comey might make additional public statements regarding the FBI's investigation of President Trump's campaign and its ties to Russia? If so, please explain. Please also provide all documents referring or relating to these concerns.
- (8) Did Director Comey ever request any additional resources, personnel, or other increased assistance for the FBI's investigation of President Trump's campaign and its ties to Russia? If so, please provide all documents relating to these requests, as well as all email or other communications relating to these requests, concerns with these requests, or the handling or disposition of these requests.

Conclusion

Over the past 48 hours, numerous press accounts have reported that the real reason President Trump fired Director Comey was not because of his handling of the Clinton investigation, but rather because the President was growing increasingly enraged by the accelerating criminal investigation into his own campaign officials and their ties to Russia.¹⁰

These revelations raise even more grave concerns about the role the Attorney General played in this process despite his previous recusal.

¹⁰ See, e.g., *Inside Trump's Anger and Impatience—And His Sudden Decision to Fire Comey*, Washington Post (May 10, 2017) (online at www.washingtonpost.com/politics/how-trumps-anger-and-impatience-prompted-him-to-fire-the-fbi-director/2017/05/10/d9642334-359c-11e7-b373-418f6849a004_story.html?utm_term=.4ccb6146c052).

We recognize that the Attorney General's actions have thrust you into a very delicate position with respect to enforcing the law of the land against your superior. In this case, however, the Attorney General previously recused himself from these matters, leaving you with the solemn obligation to fulfill your responsibilities to the Department of Justice and the nation.

Thank you for your service and for your cooperation with this request.

Sincerely,



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



John Conyers, Jr.
Ranking Member
Committee on the Judiciary

cc. The Honorable Jason Chaffetz, Chairman
Committee on Oversight and Government Reform

The Honorable Bob Goodlatte, Chairman
Committee on the Judiciary

Popp, David (McConnell)

From: Popp, David (McConnell)
Sent: Monday, May 15, 2017 1:14 PM
To: Flores, Sarah Isgur (OPA)
Subject: We are going to announce this in the next 10-15 minutes. 228-7677 if you have any questions. thanks.

Deputy Attorney General Rod Rosenstein has accepted the Majority Leader's invitation to lead an all-Senators briefing regarding the removal of former FBI Director James Comey. The briefing will take place on Thursday, May 18th at 2:30 P.M.

David Popp
Communications Director
Senate Majority Leader Mitch McConnell
(202) 228-7677 (office)

(b) (6)

republicanleader.senate.gov

Higgins, Casey

From: Higgins, Casey
Sent: Monday, May 15, 2017 7:19 PM
To: Ramer, Sam (OLA)
Cc: Dressler, Jeff
Subject: Briefing

Sam,

The Speaker would like to request a briefing for members of the House with Deputy Attorney General Rod Rosenstein regarding the removal of former FBI Director James Comey. To accommodate the floor schedule, the best times are Wednesday between 2-5pm, or Thursday between 2-4pm. Please let me know what time would work. Please call if you have additional questions. Thanks in advance!

Casey Christine Higgins

Assistant to the Speaker for Policy & Trade Counsel
Office of the Speaker | The Honorable Paul D. Ryan
H-232, The Capitol, Washington, DC 20515
Direct: (b) (6) | Cell: (b) (6)

From: Chernin, Michael [mailto:(b) (6)]
Sent: Wednesday, May 10, 2017 6:47 PM
To: DOJ Correspondence (SMO) <Ex_DOJCorrespondence@jmd.usdoj.gov>
Cc: Arevalo, Elizabeth (b) (6)
Subject: Letter from Rep. Ted Lieu to Deputy AG Rosenstein

Hello:

Please find attached a letter from Congressman Lieu, Congresswoman Plaskett, and Congresswoman Rice to Deputy Attorney General Rosenstein. If you have any questions or concerns, please contact our office at 202-225-3976. Thank you for your help in ensuring Mr. Rosenstein receives this letter.

Best,
Michael

Michael Chernin | Legislative Assistant
Office of Congressman Ted W. Lieu (CA-33)
236 Cannon House Office Building
Washington, DC 20515
202-225-3976 | lieu.house.gov



TED W. LIEU
33RD DISTRICT, CALIFORNIA

COMMITTEE ON THE
JUDICIARY

COMMITTEE ON
FOREIGN AFFAIRS

Congress of the United States
House of Representatives
Washington, DC 20515-0533

236 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3976

5055 WILSHIRE BOULEVARD, SUITE 310
LOS ANGELES, CA 90036
(310) 652-3095

1600 ROSECRANS AVENUE, 4TH FLOOR
MANHATTAN BEACH, CA 90266
(310) 321-7664

May 10, 2017

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

Dear Deputy Attorney General Rosenstein:

We are writing to request that you appoint a special prosecutor to investigate possible collusion between the Donald Trump for President Campaign and Russia. As you know, Attorney General Jeff Sessions recused himself from all matters related to the Russian collusion investigation. On April 4, 2017 we wrote a letter to then Acting Deputy Attorney General Dana Boente requesting appointment of a Special Counsel. Before Mr. Boente could respond, you were confirmed as Deputy Attorney General. We are now renewing our request to you for appointment of a Special Counsel.

As former prosecutors, we know that governmental investigations must be independent and free of conflicts of interest. Because you serve at the pleasure of the President, it is our belief that you have a conflict of interest and cannot exercise true independence into an investigation that may implicate the President. Moreover, your significant role in the firing of FBI Director James Comey—who was leading a counterintelligence investigation into possible collusion between Trump associates and Russia—has placed you into direct conflict with the FBI's counterintelligence investigation. Those are two of the reasons we request that you appoint a Special Counsel to investigate any collusion with Russia.

The disclosure that President Trump's first National Security Advisor, Michael Flynn, has asked for immunity provides a third reason why you need to appoint a special prosecutor. We support the ongoing investigations by the relevant committees in the House and the Senate, as well as the Protecting Our Democracy Act. Congress, however, cannot grant immunity from prosecution on behalf of the Department of Justice.¹ Only the Department can make that decision, which is why we need a Special Counsel to decide.

Based on the above reasons, we believe that Title 28 of the Code of Federal Regulations (CFR) requires you to appoint a Special Counsel. Section 600.1 states:

¹ We note that in the Watergate scandal, White House Counsel John Dean was granted use immunity from the U.S. Senate and also prosecuted by the Department of Justice.

The Attorney General, or in cases in which the Attorney General is recused, the Acting Attorney General, *will* appoint a Special Counsel when he or she determines that criminal investigation of a person or matter is warranted and—

(a) That investigation or prosecution of that person or matter by a United States Attorney's Office or litigating Division of the Department of Justice would present a conflict of interest for the Department or other extraordinary circumstances; and

(b) That under the circumstances, it would be in the public interest to appoint an outside Special Counsel to assume responsibility for the matter.” CFR § 600.1 (emphasis added).

The factors set forth in Section 600.1 of the CFR are met in this case. The investigation into possible Russian collusion may implicate President Trump and Attorney General Sessions. Your present position is dependent on the President not firing you. President Trump has shown no hesitation in firing Department of Justice officials who stand up to him, as demonstrated by his firing of Acting Attorney General Sally Yates, US Attorney Preet Bharara and now FBI Director Comey. You have a built-in-conflict of interest and cannot exercise independence for an investigation that may implicate either of your bosses (the Attorney General or the President of the United States), upon whom you depend for your employment.

Your significant role in the termination of FBI Director Comey also places you into a conflict situation with the FBI's counterintelligence investigation and presents an extraordinary circumstance. It would be reasonable to assume FBI counterintelligence agents—who are investigating the President's associates and perhaps the President himself—may no longer trust you because you helped fire their leader at the bidding of the President.

The public interest also demands that a special prosecutor be appointed. There is no more important matter to our nation than the issue of whether or not the Trump campaign colluded with Russia. At stake is the legitimacy of the Presidency and whether high crimes occurred. In the Watergate scandal, there were investigations both by Congress as well as a special prosecutor. In Watergate, Democratic National Committee (DNC) documents were stolen but never revealed to the public in an attempt to alter an election. In this case, DNC emails were stolen and disclosed to the public by the Russians. If the Trump campaign colluded with the Russians, then the scale of the current scandal would be far greater than Watergate.

The astonishing development that President Trump's former National Security Advisor is seeking immunity adds urgency to our request. As former prosecutors, we know that people normally request immunity if they believe they have committed, or are likely to be prosecuted for, a crime. We need a Special Counsel who can exercise true independence in the Russia collusion investigation and make decisions on issues such as immunity, whether the request comes from General Flynn or potentially other witnesses.

We ask you to follow the Code of Federal Regulations and appoint a Special Counsel to investigate possible collusion between the Trump campaign and Russia. Thank you for your attention to this critical matter.

Sincerely,



Ted W. Lieu
Member of Congress



Kathleen Rice
Member of Congress



Stacey Plaskett
Member of Congress

U.S. House of Representatives

Committee on the Judiciary

Washington, DC 20515-6216

One Hundred Fifteenth Congress

May 9, 2017

Rod J. Rosenstein
Deputy Attorney General
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C., 20530

Andrew G. McCabe
Acting Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, D.C., 20535

Dear Deputy Attorney General Rosenstein and Acting Director McCabe:

In light of today's shocking decision by the President to fire FBI Director Comey, it is imperative that you take several immediate steps to protect the integrity of your investigations into Russian efforts to influence our recent election and related matters. First, we ask that any and all files, documents, memoranda and other materials involving the Department's and FBI's criminal investigation into matters related to Russian interference in our federal elections; collusion with individuals associated with the Trump campaign; and associated matters be preserved and placed off limits to any and all White House officials and staff and any other individuals, including Attorney General Sessions, who have recused themselves from the investigation. Second, we request that you preserve any and all files, documents, memoranda and other materials related to Director Comey's termination by the President, so that it may be subsequently reviewed by appropriate members of Congress, and in connection with any subsequent investigations.

We do not make this request lightly. However, the recent firing of Director Comey by a President, whose own campaign representatives and associates are under investigation for possible collusion with the Russian government, leave us with little choice but to call for these actions. Our request is even more important given that a series of White House efforts to influence the investigation and the media coverage of it have made it clear that the Trump Administration cannot be allowed to interfere any further in this investigation. This includes White House efforts asking the FBI to "knock down" White House-Russia stories earlier this year; separate efforts by the White House to leak information to Rep. Nunes so that he could seek to justify President Trump's unfounded accusations that President Obama "tapped" his phones; as well as the President's decision to fire Preet Bharara, the U.S. Attorney for the Southern District of New York who had jurisdiction over investigations involving Trump Tower,

even after the President promised Mr. Bahara he could keep his job. Unfortunately, we are also concerned about the continued involvement of the Attorney General in these issues, including his role in firing Director Comey. Our request takes on added urgency given that Mary McCord, the career prosecutor supervising the Russia probe has announced that she is departing this week.

Nothing less than the integrity of our leading independent law enforcement agency and the credibility of our democracy are at stake. We look forward to your response at your earliest convenience, and by no later than May 12, 2017 at the latest.

Sincerely,

John Conyers Jr.

Jerrad Nadler

David N. Cicillini

Sheila Jackson Lee

Zoe Lof

Adam C.

cc: Bob Goodlatte, Chairman, House Judiciary Committee