

# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

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March 1, 2018

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

Dear Deputy Attorney General Rosenstein:

The Committee on Homeland Security and Governmental Affairs is continuing its oversight of the Federal Bureau of Investigation (FBI) and the FBI's investigation of classified information on former Secretary of State Hillary Clinton's private email server. I write to request information about the FBI's actions relating to the discovery of communications between Hillary Clinton and Huma Abedin on former Congressman Anthony Weiner's laptop.<sup>1</sup>

From information obtained by the Committee, it appears that high-level FBI officials were aware in late September 2016 of the discovery of emails potentially relating to the Hillary Clinton investigation on a laptop belonging to Ms. Abedin's husband, Congressman Weiner. The cryptic and disjointed nature of the text messages, in addition to heavy redactions applied to other FBI documents, make it difficult to understand fully the sequence of events. However, the information available raises questions about the timing of the FBI's actions.

- **September 28, 2016:** Ms. Page and Mr. Strzok had the following exchange:

**Mr. Strzok:** Got called up to Andy's<sup>2</sup> earlier...hundreds of thousands of emails turned over by Weiner's atty to sdny,<sup>3</sup> includes a ton of material from spouse. Sending team up tomorrow to review...this will never end....

**Ms. Page:** Turned over to them why?

**Mr. Strzok:** Apparently one of his recent texting partners may not have been 18...don't have the details yet

**Ms. Page:** Yes, reported 15 in the news.<sup>4</sup>

<sup>1</sup> Brent D. Griffiths, *State Department releases emails from computer Huma Abedin shared with Anthony Weiner*, POLITICO, Dec. 29, 2017, <https://www.politico.com/story/2017/12/29/huma-abedin-emails-state-department-anthony-weiner-319635>

<sup>2</sup> "Andy" likely refers to Andrew McCabe, who was then the FBI's Deputy Director.

<sup>3</sup> "[S]dny" likely refers to the U.S. Attorney's Office for the Southern District of New York.

<sup>4</sup> Jan. 19 production at 272.

- **September 29, 2016:** An FBI employee with the Microsoft Lync<sup>5</sup> display name “samoyer”—likely FBI attorney Sally Moyer—exchanged messages about the discovery of new emails on Congressman Weiner’s laptop with an FBI employee whose display name was redacted:

**samoyer:** Are you doing a Lync with NYO<sup>6</sup> today about these new emails?

**Redacted:** yes. can I call you quickly

**samoyer:** Yes.<sup>7</sup>

- **September 29, 2016:** An FBI employee with the Lync display name “tbanderson”—likely FBI Principal Deputy General Counsel Trisha Anderson—had a conversation with a redacted FBI employee about “a new development” in the Clinton email investigation and coordination the FBI’s New York field office about the development:

**Redacted to tbanderson:** Sorry I missed the 10:15. I was meeting with Bill<sup>8</sup> about a new development in MYE.<sup>9</sup> I believe he also reached out to you, but you were in a meeting. I can bring you up to speed when you have a minute.

**tbanderson to redacted:** I’m free now if you want to talk.

**Redacted to tbanderson:** I’m about to do a call with NYO<sup>10</sup> about this issue. I’ll follow up after, if that’s ok.<sup>11</sup>

- **October 27, 2016:** Ms. Page alerted Mr. Strzok that the FBI’s Clinton email investigation team, known as the Midyear Exam (MYE) team, would meet the following day:

**Ms. Page:** Sorry, was on with andy, now have to deal with [redacted]. Brb.

**Ms. Page:** Hey, guess what. We’re going to have a mye exam meeting tomorrow. Like old times...

**Mr. Strzok:** Holy moly. Who?

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<sup>5</sup> Lync is a Microsoft product that supports instant messaging, audio and video calls, and online meetings, among other features. See Microsoft, *Enhance team communication with Lync 2013*, <https://products.office.com/en-us/microsoft-lync-2013>.

<sup>6</sup> “NYO” likely refers to the FBI’s New York Field Office.

<sup>7</sup> Feb. 15 production at FBI001123.

<sup>8</sup> “Bill” likely refers to E.W. Priestap, Assistant Director of the FBI’s Counterintelligence Division.

<sup>9</sup> “MYE” refers to refers to the FBI’s case name for the Clinton email investigation.

<sup>10</sup> “NYO” likely refers to the FBI’s New York Field Office.

<sup>11</sup> Feb. 15 production at FBI001025.

**Ms. Page:** The whole band! We're back on tour!

**Mr. Strzok:** Not announced, but they all know. Calls actually happened yesterday. And I feel (hopefully don't look as old) like Keith Richards. Andy joining via call? There's nothing classified....

**Ms. Page:** Yes, he is.<sup>12</sup>

- **October 28, 2016:** Then-FBI Director James Comey sent a letter to Congress announcing the "recent developments" of the discovery of additional communications between Secretary Clinton and Ms. Abedin on former Congressman Weiner's laptop.<sup>13</sup> Director Comey explained that "the investigative team briefed me on this yesterday, and I agree that the FBI should take appropriate investigative steps designed to allow investigators to review these emails to determine whether they contain classified information, as well as to assess their importance to our investigation."<sup>14</sup>

From documents obtained by the Committee, it appears that Director Comey sought to emphasize the urgency with which he acted. In commenting on a draft of his letter to Congress, Director Comey advised his chief of staff Jim Rybicki, "I would say that 'after learning of this YESTERDAY, I directed . . . [sic]' I would like it to be clear I learned of this today and jumped on it."<sup>15</sup>

- **October 30, 2016:** Mr. Strzok wrote to Ms. Page, apparently about the progress of the review of emails:

**Mr. Strzok:** [redacted] told doj [sic] we have **at least one classified**. I left a vague vm for [redacted]<sup>16</sup>

- **November 6, 2016:** Mr. Strzok wrote to Ms. Page:

**Mr. Strzok:** Leaving finally now. Turns our [sic] **no new classified**.<sup>17</sup>

- **November 6, 2016:** Director Comey sent a second letter to Congress stating that the FBI "ha[s] not changed our conclusions that we expressed in July with respect to Secretary Clinton."<sup>18</sup> His statement did not indicate whether any classified material was found on Congressman Weiner's devices.

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<sup>12</sup> Jan. 19 production at 302-03.

<sup>13</sup> Letter from James B. Comey, Fed. Bureau of Investigation, to Richard Burr et al. (Oct. 28, 2016).

<sup>14</sup> *Id.*

<sup>15</sup> Email from James Comey to James Rybicki, Oct. 27, 2016, SJC 000591 (emphasis in the original).

<sup>16</sup> Jan. 19 production at 308 (emphasis added).

<sup>17</sup> Jan. 19 production at 316 (emphasis added).

<sup>18</sup> Letter from The Honorable James Comey, Director, Fed. Bureau of Investigation, to Sen. Ron Johnson, S. Comm. on Homeland Security & Gov't Affairs, et al. Nov. 6, 2016.

- **December 13, 2016:** Mr. Strzok wrote Ms. Page about the possibility that the FBI would conduct an interview with “HA,” which likely refers to Ms. Abedin:<sup>19</sup>

**Mr. Strzok:** Talked with DoJ about HA<sup>20</sup> interview. Told them we had to interview, no immunity. They said they thought that would get counsel to the point of saying she’s either taking the 5th in the Gj<sup>21</sup> or you need to give her immunity. I said that’s fine, please have discussions to get the decision to that point and I would run up the chain

**Mr. Strzok:** [redacted] hen [*sic*] asked if Toscas<sup>22</sup> should call Mike<sup>23</sup>, as that was his understanding of who his new POC was on this case.

**Ms. Page:** Do I need to bring up to andy<sup>24</sup> at some point?

**Mr. Strzok:** I said Bill would be better, but that I needed to run past Bill to see what he says<sup>25</sup>

Information obtained from other sources supports this timeline and suggests that senior FBI officials, for unknown reasons, didn’t act upon the discovery of new material on Congressman Weiner’s laptop until late October 2016. In connection to a U.S. Office of Special Counsel (OSC) Hatch Act investigation of Director Comey,<sup>26</sup> Mr. Rybicki described the FBI’s urgency. He testified:

**OSC investigator:** So we’re going to fast forward to October of 2016. I guess at some point you found out or you learned that there – there had been some new evidence discovered that might be related to the Hillary Clinton email investigation?

**Mr. Rybicki:** **Correct. So on October 27th – so the – on the night of the 26th I was contacted by the Deputy Director’s Office, so the operational side of the House, saying we need to – we need to brief the Director tomorrow about .**

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<sup>19</sup> According to the Justice Department, the use of “HA” in these text messages likely refers to Huma Abedin. Committee staff phone call with DOJ Office of Legislative Affairs, Feb. 20, 2018.

<sup>20</sup> “HA” likely refers Huma Abedin.

<sup>21</sup> “Gj” likely refers to grand jury.

<sup>22</sup> “Toscas” likely refers to George Toscas Deputy Assistant Attorney General for the Justice Department’s National Security Division.

<sup>23</sup> It is unclear to whom “Mike” refers. “Mike” may refer to Michael Steinbach, the former Executive Assistant Director of the FBI’s National Security Branch, or Michael Kortan, the former Assistant Director of the FBI’s Office of Public Affairs.

<sup>24</sup> “[A]ndy” likely refers to former FBI Deputy Director Andrew McCabe.

<sup>25</sup> Jan. 19 production at 338.

<sup>26</sup> U.S. Office of Special Counsel Complaint No. HA-17-0515.

. . . something related to mid-year exam, this was called an update, which we need – we’ll need his attention first thing in the morning. So we set that up for the morning of the 27<sup>th</sup>, and the team, the executive team reassembled to brief the Director on, you know, sort of what unfolded. The finding of this laptop in an unrelated criminal investigation.<sup>27</sup>

Later in the interview, Mr. Rybicki explained that the FBI “found a lot of new emails” on the Weiner laptop:

**Mr. Rybicki:** So the mid-year team is still doing their thing, they’re reviewing it. They’re seeing emails that we had seen before. And so they’re not finding the six-month emails that we talked about, right? **They’ve found – they found a lot of new emails right? So it’s kind of when people say we didn’t find anything, that’s not accurate. We did find new stuff. But nothing that would change our view of the original conclusion in July. That’s the upshot.**<sup>28</sup>

OSC also interviewed Ms. Anderson as part of its Hatch Act investigation.<sup>29</sup> She testified:

**Ms. Anderson:** [W]e met I believe it was on October 27th and the Director was briefed on what we knew about the material that was on the Weiner laptop at that point in time and that was all under the constraints of the search warrant as it existed for purposes of the Weiner investigation. We had no search warrant at that point in time for purposes of the Clinton email server investigation so he was briefed on what we knew at the time and then we had a discussion about what we should do going forward that did include a discussion about you know whether we should seek a search warrant, how we should proceed to seek to obtain evidence.<sup>30</sup>

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<sup>27</sup> OSC interview of James Rybicki. May 9, 2017. At pg. 68. The reference to “mid-year exam” refers to the FBI’s case name for the Clinton email investigation.

<sup>28</sup> OSC interview of James Rybicki. May 9, 2017, at pg. 116. (emphasis added).

<sup>29</sup> U.S. Office of Special Counsel Complaint No. HA-17-0515. On May 1, 2017, OSC interviewed FBI Principal Deputy General Counsel Trisha Anderson. Ms. Anderson oversaw the national security and cyber law branch of the Office of General Counsel.

<sup>30</sup> OSC interview of Trisha Anderson. May 1, 2017, at pg. 35-36.

The OSC investigator asked about the FBI's discussion to seek a search warrant and why it was so urgent:

**OSC investigator:** Was there a discussion about when the search warrant should be sought?

**Ms. Anderson:** I don't recall if there was anything explicit except, um, the sense that we needed to seek one urgently if you know after we decided that was the appropriate next step that we couldn't sit and wait on it.

**OSC investigator:** What was the urgency?

**Ms. Anderson:** That given the significance of the matter um, uh, that we had to proceed quickly. **It was just too, too explosive for us to sit on.**<sup>31</sup>

I am seeking to better understand the timing and nature of FBI's actions relating to the discovery of emails exchanged between Secretary Clinton and Huma Abedin on the laptop belonging to Anthony Weiner.<sup>32</sup> I ask that you please produce the following information and material:

1. Please provide a timeline of when officials at FBI headquarters including but not limited to Director Comey, Deputy Director McCabe, General Counsel James Baker, and Chief of Staff Jim Rybicki, became aware of the existence of emails between former Secretary Clinton and Huma Abedin on a laptop belonging to Congressman Weiner.<sup>33</sup>
2. Please provide a timeline of when officials at the FBI's New York, New York Field Office became aware of the existence of emails between former Secretary Clinton and Huma Abedin on a laptop belonging to Congressman Weiner.
3. *The Washington Post* reported that the Department of Justice Inspector General is examining whether Deputy Director McCabe delayed acting on Clinton-related emails discovered on Congressman Weiner's laptop for nearly three weeks.<sup>34</sup> Please explain whether Deputy Director McCabe's actions with respect to the discovery of relevant documents on Mr. Weiner's laptop contributed to his departure from the FBI.

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<sup>31</sup> *Id.*, at pg. 37 (emphasis added).

<sup>32</sup> Laura Jarrett, *Warrant: Clinton, Abedin emails led feds to seize Weiner laptop*, CNN, Dec. 21, 2016, <https://www.cnn.com/2016/12/20/politics/hillary-clinton-anthony-weiner-fbi-search-warrant-unsealed/index.html>

<sup>33</sup> *Id.*

<sup>34</sup> Devlin Barrett and Karoun Demirjian, *Internal Justice Department probe eyes McCabe's role in final weeks of 2016 election*, WASH. POST, Jan. 30, 2018, [https://www.washingtonpost.com/world/national-security/internal-justice-department-probe-eyes-mccabes-role-in-final-weeks-of-2016-election/2018/01/30/db2ea8f0-05c7-11e8-8777-2a059f168dd2\\_story.html?hpid=hp\\_hp-top-table-main\\_mccabe-420p%3Ahomepage%2Fstory&utm\\_term=.0a940f4b5afd](https://www.washingtonpost.com/world/national-security/internal-justice-department-probe-eyes-mccabes-role-in-final-weeks-of-2016-election/2018/01/30/db2ea8f0-05c7-11e8-8777-2a059f168dd2_story.html?hpid=hp_hp-top-table-main_mccabe-420p%3Ahomepage%2Fstory&utm_term=.0a940f4b5afd)

4. Did the U.S. Attorney's Office for the Southern District of New York (SDNY) make FBI leadership aware of the discovery of emails relating to Secretary Clinton's handling of classified information? If so, when and who from the SDNY contacted the FBI?
5. Please explain why the FBI did not obtain a search warrant for Congressman Weiner's laptop until October 30, 2016.<sup>35</sup> Did the FBI and/or Justice Department consider obtaining a search warrant prior to October 30, 2016? Please explain.
6. Please explain whether the FBI found emails containing classified information on the laptop belonging to Congressman Weiner. If so, how many such emails did the FBI discover, who were the sender and recipient of the emails, what was the level of classified information contained in the emails, and had the FBI already recovered those emails from Secretary Clinton's private server?
7. Mr. Rybicki testified that the FBI "did find new stuff" on the laptop "but nothing that would change our view of the original conclusion in July." Please explain how the FBI reached that conclusion.
8. Did the FBI have an interest in Ms. Abedin as of December 2016? Did the FBI interview Ms. Abedin? Did she receive immunity?

Please provide this information as soon as possible but no later than March 15, 2018. Please provide an unclassified response to the greatest extent possible. If a full response requires the production of classified information, please provide this material under separate cover via the Office of Senate Security.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate "the efficiency, economy, and effectiveness of all agencies and departments of the Government,"<sup>36</sup> Additionally, S. Res. 62 (115th Congress) authorizes the Committee to examine "the efficiency and economy of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices . . . ."<sup>37</sup>

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<sup>35</sup> Laura Jarrett, *Warrant: Clinton, Abedin emails led feds to seize Weiner laptop*, CNN, Dec. 21, 2016, <https://www.cnn.com/2016/12/20/politics/hillary-clinton-anthony-weiner-fbi-search-warrant-unsealed/index.html>

<sup>36</sup> S. Rule XXV(k); *see also* S. Res. 445, 108th Cong. (2004).

<sup>37</sup> S. Res. 62 § 12, 115th Cong. (2017).

The Honorable Rod J. Rosenstein  
March 1, 2018  
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Thank you for your attention to this matter. If you have any questions about this request, please contact Brian Downey or Kyle Brosnan of the Committee staff at (202) 224-4751.

Sincerely,

A handwritten signature in blue ink that reads "Ron Johnson". The signature is written in a cursive style with a large, looping "R" and "J".

Ron Johnson  
Chairman

cc: The Honorable Claire McCaskill  
Ranking Member

Enclosure