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COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

June 29, 2018

The Honorable Michael E. Horowitz
Inspector General
Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Inspector General Horowitz:

On June 14, 2018, the Department of Justice Office of the Inspector General (DOJ OIG) issued a report entitled “A Review of Various Actions by the Federal Bureau of Investigation and Department of Justice in Advance of the 2016 Election.”¹ In light of other congressional hearings on the DOJ OIG report,² I postponed the Committee’s hearing scheduled for June 27 to allow additional time to understand the facts contained in the report. Accordingly, as the Committee continues to review the facts presented by the DOJ OIG, I respectfully request that you please provide the following information and material:

FBI’s culture of bias

1. Did you seek to determine if bias as demonstrated in text messages between Lisa Page and Peter Strzok was openly displayed in the workplace? If not, why not? If yes, how pervasive was that bias, and how long was the bias present?
2. Did you seek to determine when senior leaders within the FBI became aware of the bias exhibited by Ms. Page and Mr. Strzok? If not, why not? If yes, were senior leaders aware of the bias prior to July 2017, and what actions did senior leaders take?
3. Did you ask former Director Comey when he first became aware of the bias demonstrated in the Page-Strzok text messages? If not, why not? If yes, when did he first become aware of the bias?
4. Did you ask former Deputy Director McCabe when he first became aware of the bias demonstrated in the Page-Strzok text messages? If not, why not? If yes, when did he first become aware of the bias?
5. Did you ask any other FBI officials when they first became aware of the bias demonstrated in the Page-Strzok text messages? If not, why not? If yes, when did they first become aware of the bias?

¹ U.S. Dep’t of Justice Off. of Inspector Gen., A Review of Various Actions by the Federal Bureau of Investigation and Department of Justice in Advance of the 2016 Election (June 2018) [hereinafter “DOJ OIG report”].

² *Examining the Inspector General’s First Report on Justice Department and FBI Actions in Advance of the 2016 Presidential Election*, Hearing Before S. Comm. on the Judiciary, 115th Cong. (2018); *Oversight of the FBI and DOJ Actions in Advance of the 2016 Election*, Joint Hearing Before H. Comm. on the Judiciary & H. Comm. on Oversight and Government Reform, 115th Cong. (2018).

6. Did you seek to determine who within the FBI promoted the following individuals to the following positions:
 - a. Andrew McCabe to be an FBI executive;
 - b. Peter Strzok to Deputy Assistant Director of the Counterintelligence Division; and
 - c. Lisa Page to Special Counsel to the Deputy Director.

Anticipatory obstruction of justice

7. Did you seek to determine whether the FBI or DOJ considered potential anticipatory obstruction of justice charges against any of the following individuals: Hillary Clinton, Cheryl Mills, Heather Samuelson, David Kendell, Beth Wilkinson, Huma Abedin, or Jake Sullivan? If not, why not? If investigators and prosecutors considered bringing these charges and declined to do so, why did they make that decision?

Culling of emails from Secretary Clinton's servers

8. Did you seek to determine who at the State Department made the decision to allow a member of Secretary Clinton's staff to cull work-related emails that were discovered on her private server? If not, why not? If yes, did DOJ OIG seek to interview this official? If you did interview this official, what did DOJ OIG learn from this interview?
9. Did you ask whether the FBI was able to determine whether there were classified emails with portion markings included in the emails that were deleted using BleachBit?
10. Did you seek to determine whether the State Department or DOJ sent preservation of records orders to Secretary Clinton, any of her staff, or legal representatives with respect to information contained on her private email server? If not, why not? If so, when were those requests first sent and by whom?

Talking around classified information

11. The DOJ OIG report makes no reference to a State Department document released via FOIA in which Secretary Clinton directed her aide Jake Sullivan to "turn into nonpaper w no identifying heading and send nonsecure" when the State Department experienced technical difficulties with its secure fax line.³ Did you seek to determine whether the FBI or DOJ considered this email in evaluating Secretary Clinton's intent relative to the "grossly negligent" standard in 18 U.S.C. § 793(f) concerning the mishandling of classified information? If not, why not? If yes, what did you determine?

Missing Strzok-Page texts

12. Did you seek to determine which FBI entity or employee discovered the apparent software malfunction that resulted in the loss of cellphone communications for FBI employees? If not, why not? If yes, what did you determine?
13. Did you seek to determine which FBI entity or employee discovered that there were approximately five months of missing text messages between Peter Strzok and Lisa Page? If not, why not? If yes, what did you determine?

³ Reena Flores, *In email, Hillary Clinton tells aide to send talking points "nonsecure"*, CBS NEWS, Jan. 8, 2016, <https://www.cbsnews.com/news/state-department-releases-more-clinton-emails-several-marked-classified>.

14. Did you seek to determine if the FBI ever attempted to recover the missing text messages once it discovered the time gap? If not, why not? If yes, please provide a timeline and detail of the FBI's recovery efforts.
15. If the FBI attempted to recover the missing texts, did you seek to determine why the FBI's attempts to recover the missing text messages were unsuccessful? If not, why not? If yes, what did you determine?
16. Why did the DOJ OIG—and not the FBI—ultimately recover the missing text messages?
17. Did you seek to determine why the FBI did not inform Congress about the missing text messages immediately upon becoming aware of them? If not, why not? If yes, what did you determine?
18. Did the DOJ OIG seek text messages/instant messages from Department of Justice employees involved in the Midyear investigation? If not, why not?

Setting up the private servers

19. According to the DOJ OIG report, the FBI was unable to obtain emails from Secretary Clinton's first two months as Secretary of State (January 21, 2009 through March 18, 2009).⁴ Did you seek to determine if the FBI received a plausible explanation for this gap and whether these missing emails affected the conclusions reached in the investigation? If so, what did you determine?
20. According to the DOJ OIG report, the FBI and DOJ were denied access to emails sent or received just before or after Secretary Clinton's tenure, which would have helped understand the intent behind setting up the servers.⁵ Did you seek to determine if the FBI received an acceptable/plausible explanation for this denial and whether these constraints affected the conclusions reached in the investigation? If so, what did you find?
21. The DOJ OIG report explained that a "primary focus of the Midyear investigation was on former Secretary Clinton's intent in setting up and using her private server."⁶ Did you seek to determine whether the FBI or DOJ investigated whether Secretary Clinton or her aides ever contemplated — at the time of the servers' set up — that the servers would potentially send or receive sensitive or classified information? If not, why not? If so, what did you determine?
22. Did you seek to determine whether the Midyear investigation examined any instructions Secretary Clinton or her staff received when setting up the servers with respect to the transmission of classified materials? If not, why not? If so, what were those instructions and who provided them?
23. Prosecutor 4 told OIG investigators that his "view was and still remains that the private email server was set up to avoid FOIA."⁷ Did you seek to determine whether the FBI or DOJ investigated whether the servers were set-up to avoid FOIA? If not, why not? If so, what did you determine?

⁴ DOJ OIG report at 73-74.

⁵ *Id.* at 124.

⁶ *Id.* at 41.

⁷ *Id.* at 259.

The Honorable Michael E. Horowitz

June 29, 2018

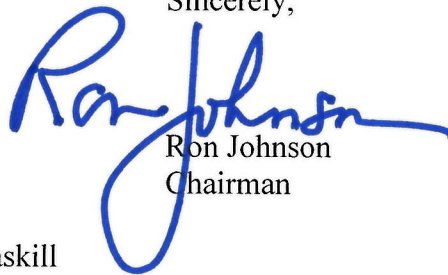
Page 4

Please provide this information as soon as possible but no later than 5:00 p.m. on July 13, 2018.

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,”⁸ 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”⁹

If you have any questions about this request, please ask your staff to contact Brian Downey or Kyle Brosnan of the Committee staff at (202) 224-4751. Thank you for your attention to this matter.

Sincerely,



Ron Johnson
Chairman

cc: The Honorable Claire McCaskill
Ranking Member

Enclosure

⁸ S. Rule XXV(k); *see also* S. Res. 445, 108th Cong. (2004).

⁹ S. Res. 62 § 12, 115th Cong. (2017).