Congress of the United States
Washington, DC 20515

May 16, 2017

The Honorable Jason Chaffetz
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Bob Goodlatte
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairmen Chaffetz and Goodlatte:

We are writing to request that the Oversight Committee and the Judiciary Committee launch an immediate joint investigation into whether President Donald Trump and his top officials are engaged in an ongoing conspiracy to obstruct the criminal, counter-intelligence, and oversight investigations currently being conducted by the Federal Bureau of Investigation, the Department of Justice, and Congress into members of his presidential campaign and their contacts with Russian officials.

This evening, the *New York Times* reported grave allegations that the President personally pressured FBI Director James Comey to drop the ongoing criminal investigation of former National Security Advisor Michael Flynn. As the *Times* reported:

> Mr. Comey wrote the memo detailing his conversation with the president immediately after the meeting, which took place the day after Mr. Flynn resigned, according to two people who read the memo. The memo was part of a paper trail Mr. Comey created documenting what he perceived as the president's improper efforts to influence a continuing investigation.[1]

This revelation follows an astonishing admission made by the President last Thursday during an interview on national television when he stated in unequivocal terms that he fired

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[1] *Comey Memo Says Trump Asked Him to End Flynn Investigation,* New York Times (May 16, 2017) (online at www.nytimes.com/2017/05/16/us/politics/james-comey-trump-flynn-russia-investigation.html).

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Director Comey because the President believes the investigation into his presidential campaign and its ties to Russia is illegitimate.

President Trump stated:

> In fact, when I decided to just do it, I said to myself, I said, "you know, this Russia thing with Trump and Russia is a made-up story, it's an excuse by the Democrats for having lost an election that they should have won."[2]

The President also asserted that, when Director Comey indicated during a private dinner that he wanted to stay on under the new Administration, the President pressed the Director on whether the FBI was investigating him.[3] Press reports issued since then indicate that President Trump also may have demanded Director Comey's "loyalty."[4]

Attempting to leverage the FBI Director's continued service to obtain an assurance that he would not investigate the President would be an abuse of the Office of the President and a blatant attempt to interfere with an ongoing criminal investigation.

On Friday, the President sent tweets that appeared to directly threaten the FBI Director, warning that "James Comey better hope that there are no 'tapes' of our conversations before he starts leaking to the press!"[5] Although White House Press Secretary Sean Spicer tried to argue that the President's warning was "not a threat," he refused to deny the existence of secret recordings, stating that "[t]he President has nothing further to add on that."[6] The President then said in response to a question about the existence of secret recordings: "Well that I can't talk about. I won't talk about that."[7]

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[2] *Watch Lester Holt's Extended Interview with President Trump,* NBC News (May 11, 2017) (online at www.nbcnews.com/nightly-news/video/pres-trump-s-extended-exclusive-interview-with-lester-holt-at-the-white-house-941854787582).

[3] *Id.*

[4] *See, e.g., In a Private Dinner, Trump Demanded Loyalty. Comey Demurred.*, New York Times (May 11, 2017) (online at www.nytimes.com/2017/05/11/us/politics/trump-comey-firing.html).

[5] Donald J. Trump, Twitter (May 12, 2017) (online at https://twitter.com/realdonaldtrump/status/863007411132649473).

[6] *Press Briefing by Press Secretary Sean Spicer, 5/12/2017, #47*, The White House (May 12, 2017) (online at www.whitehouse.gov/the-press-office/2017/05/12/press-briefing-press-secretary-sean-spicer-5122017-47).

[7] *Hinting at Secret Tapes, Trump Warns Ousted FBI Director,* ABC News (May 12, 2017) (online at http://abcnews.go.com/Politics/wireStory/trump-contradicts-white-house-reasons-comey-firing-47365781).

The President's stunning admission last week directly contradicted the statements of multiple White House officials who claimed falsely throughout the week that the President fired Director Comey because of concerns about his handling of the Clinton investigation. For example, Vice President Mike Pence claimed that the President's decision was based on "the recommendation of the Deputy Attorney General and the Attorney General to remove Director Comey as the head of the FBI."[8]

In response to criticism that the White House attempted to sell a fiction to the American people, the President tweeted, "As a very active President with lots of things happening, it is not possible for my surrogates to stand at podium with perfect accuracy!"[9] He added: "Maybe the best thing to do would be to cancel all future 'press briefings' and hand out written responses for the sake of accuracy???"[10]

The irony of the President's claims is that he followed precisely this approach in rolling out his decision to fire Director Comey. There was no press conference announcing the firing, but instead the White House released three documents: (1) a memo from the Deputy Attorney General, (2) a letter from the Attorney General to the President recommending that the President fire Director Comey for his handling of the Clinton investigation, and (3) a letter from the President firing Director Comey.

The President's incredible suggestion that his senior aides were merely out of touch belies the fact that his roll-out was orchestrated at the highest levels of the White House with the direct involvement of the President, the Attorney General, and senior White House aides. The fundamental problem was not that these officials lacked up-to-date information—the problem is that they were either intentionally misinformed by the President, or they were trying to distract attention from the fact that President Trump fired Director Comey because he was growing increasingly enraged over the acceleration of the Russia investigation.

In addition to these concerns, we are alarmed 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.[11]

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[8] *Pence Insists Trump Did Not Fire Comey Over Russia Investigation*, Talking Points Memo (May 10, 2017) (online at http://talkingpointsmemo.com/dc/pence-insists-comey-firing-not-tied-to-trump-russia-probe).

[9] Donald J. Trump, Twitter (May 12, 2017) (online at https://twitter.com/realDonaldTrump/status/863000553265270786).

[10] Donald J. Trump, Twitter (May 12, 2017) (online at https://twitter.com/realDonaldTrump/status/863002719400976384).

[11] *See* Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member John Conyers Jr., House Committee on the Judiciary, to Deputy Attorney General Rod Rosenstein (May 12, 2017) (online at

We are also troubled that the White House is obstructing the Oversight Committee's investigation into former National Security Advisor Michael Flynn by refusing to produce even a single document in response to the bipartisan request made by Chairman Chaffetz and Ranking Member Cummings on March 22, 2017.[12] All Democratic Members of the Oversight Committee sent a letter to Chairman Chaffetz insisting that he press the White House to produce these documents, but the Chairman refused to even hold a meeting.[13]

Finally, it was reported this week that President Trump disclosed highly classified "code word" information to the Russian foreign minister and the Russian ambassador in an Oval Office meeting the day after he fired Director Comey, and that the foreign source of the information "had not given the United States permission to share the material with Russia."[14]

Again, the President's top aides were deployed to deny the report and then undercut by the President himself. For example, National Security Adviser H.R. McMaster held a press briefing outside the White House, proclaiming that the press story "is false" and stating, "I was in the room. It didn't happen."[15] The next morning, however, the President tweeted that he had "the absolute right" to share classified information with the Russians.[16]

It is unclear whether the President checked with his national security team, the nation's intelligence or foreign policy agencies, or the foreign source of this highly classified information before he provided it to the Russians. It is also unclear what ramifications the President's

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https://democrats-oversight.house.gov/news/press-releases/top-house-dems-raise-grave-concerns-about-attorney-general-violating-recusal-0).

[12] *See* Letter from Democratic Members to Chairman Jason Chaffetz, House Committee on Oversight and Government Reform (Apr. 27, 2017) (online at https://democrats-oversight.house.gov/news/press-releases/all-oversight-democrats-to-chaffetzget-the-white-house-documents-on-michael).

[13] Letter from Democratic Members to Chairman Jason Chaffetz, House Committee on Oversight and Government Reform (Apr. 27, 2017) (online at https://democrats-oversight.house.gov/news/press-releases/all-oversight-democrats-to-chaffetzget-the-white-house-documents-on-michael).

[14] *Trump Revealed Highly Classified Information to Russian Foreign Minister and Ambassador*, Washington Post (May 15, 2017) (online at www.washingtonpost.com/world/national-security/trump-revealed-highly-classified-information-to-russian-foreign-minister-and-ambassador/2017/05/15/530c172a-3960-11e7-9e48-c4f199710b69_story.html).

[15] *The Latest: McMaster Denies Trump Revealed Classified Info,* Associated Press (May 15, 2017) (online at www.washingtonpost.com/world/national-security/the-latest-officials-deny-trump-revealed-classified-info/2017/05/15/249b5f06-39c2-11e7-a59b-26e0451a96fd_story.html).

[16] Donald J. Trump, Twitter (May 16, 2017) (online at https://twitter.com/realDonaldTrump/status/864436162567471104).

disclosure will have on our nation's intelligence gathering or how severely this action may have damaged our national security.

Based on all of these facts, a number of criminal and other statutes could be directly implicated by the actions of the President, the Attorney General, and other officials:

- 18 U.S.C. § 1505 sets forth that a felony is committed by anyone who "endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress."

- 18 U.S.C. § 1001 sets forth that a felony is committed by anyone who "in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry."

- 18 U.S.C. § 1512 sets forth that a felony is committed by anyone who "knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—(1) influence, delay, or prevent the testimony of any person in an official proceeding; (2) cause or induce any person to—(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding; (B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding; (C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or (D) be absent from an official proceeding to which such person has been summoned by legal process; or (3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense."

- 44 U.S.C. §§ 2201-2209, the Presidential Records Act, provides that "audio" records must be preserved and that "Presidential records shall be made available—(A) pursuant to subpoena or other judicial process issued by a court of competent jurisdiction for the purposes of any civil or criminal investigation or proceeding;" as well as "to either House of Congress, or, to the extent of matter within its jurisdiction, to any committee or subcommittee thereof if such records contain information that is needed for the conduct of its business and that is not otherwise available."

- 28 U.S.C. § 528, which is entitled, "Disqualification of Officers and Employees of the Department of Justice," requires the Department of Justice to establish rules and regulations to "require the disqualification of any officer or employee of the Department of Justice … from participation in a particular investigation or prosecution if such participation may result in a personal, financial, or political conflict of interest, or the appearance thereof. Such rules and regulations may provide that a willful violation of any provision thereof shall result in removal from office."

The events of recent weeks also raise questions about whether President Trump breached his oath of office, in which he swore to "faithfully execute the Office of President of the United States" and to "preserve, protect, and defend the Constitution of the United States."[17]

Our Committees have jurisdiction not only over White House compliance with criminal statutes, but also over the proper functioning of government, the effective and efficient operation of justice, compliance with national security protocols to safeguard classified information, and allegations that our nation's highest leaders may have misled the American people and put the security of our nation at risk.

Request for Investigation

Given the gravity of the events that have occurred over the past several weeks, there is simply no reasonable question that the Oversight Committee and Judiciary Committee should already be conducting a robust investigation of these issues that includes public hearings, document requests, and interviews and depositions. It is unacceptable to continue ignoring these scandals.

Although Chairman Chaffetz recently sent a letter to the Department of Justice Inspector General, we believe that response is anemic—especially for the Oversight Committee, which claims to be the premiere investigative body in the House of Representatives—and particularly in comparison to the multiple "emergency" hearings he called and the unilateral subpoenas he issued as part of the investigation into former Secretary of State Hillary Clinton.

On several occasions—through at least four letters to Chairman Goodlatte, and in debate on three separate resolutions of inquiry debated in the Judiciary Committee—we have called for the Majority to take action "to ensure the integrity and independence of both the Department of Justice and the Federal Bureau of Investigation."[18]

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[17] *See Bombshell: Initial Thoughts on the* Washington Post*'s Game-Changing Story*, Lawfare (May 15, 2017) (online at www.lawfareblog.com/bombshell-initial-thoughts-washington-posts-game-changing-story#).

[18] Letter from Ranking Member John Conyers, Jr., et al., to Chairman Robert Goodlatte, House Committee on the Judiciary (May 11, 2017) (online at https://democrats-

We are concerned that the continued failure of House Republicans to take action in the face of this onslaught of allegations will cause significant damage to the faith that the American people have in the credibility and integrity of our Committees and the House of Representatives. We have a solemn obligation under the Constitution to act as a check on the Executive Branch and to hold President Trump accountable. It is time to do our job.

For these reasons, we request that our Committees start this process by holding an immediate hearing with Director Comey—in public.

We also request that our Committees obtain copies of all of the FBI Director's memos relating to the President, as well as all associated agency and White House records, including any audio tapes, and notes, if they exist.

Finally, we request that the Oversight Committee schedule an immediate vote on a motion to subpoena the White House to produce the documents it has been withholding in response to the bipartisan request from Ranking Member Cummings and Chairman Chaffetz on March 22, 2017.

Thank you for your consideration of this request.

Sincerely,

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

John Conyers, Jr.
Ranking Member
Committee on the Judiciary

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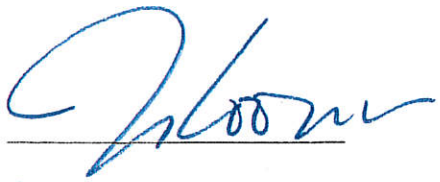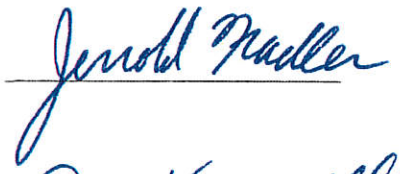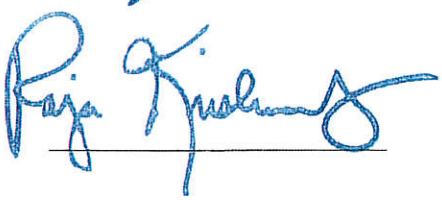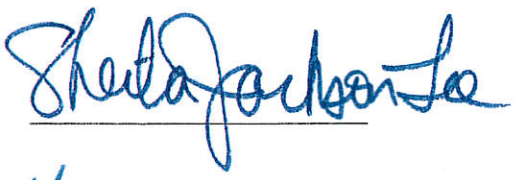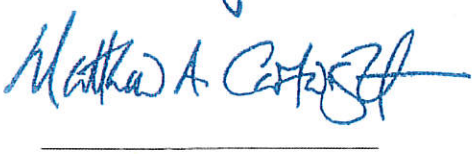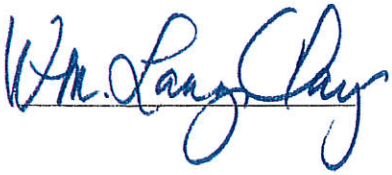
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