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November 3, 2016

VIA ELECTRONIC TRANSMISSION

The Honorable James B. Comey, Jr.
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Dear Director Comey,

On October 5, 2016, I wrote a letter to the Justice Department with Chairman Chaffetz, Goodlatte, and Nunes, regarding scoping limitations to which the FBI agreed in order to obtain voluntary consent to search Cheryl Mills' and Heather Samuelson's laptops and the Department's inexplicable agreement to destroy the laptops after review. These laptops contained records subject to congressional subpoenas and preservation letters. I have also written to the Justice Department and FBI questioning why the scope of the Clinton investigation was limited to only potential mishandling of classified information. That arbitrarily narrow scope left out potential investigative angles into intentional alienation of federal records, subverting the Freedom of Information Act process, and obstruction of Congress.¹

With respect to the laptops, the agreement that the Justice Department entered into with Ms. Mills and Ms. Samuelson permitted the FBI to review only email archives from Platte River Networks created after June 1, 2014, and before February 1, 2015, that included emails sent or received from Secretary Clinton's four email addresses while she was Secretary of State. These limitations excluded any emails between Ms. Mills and Mr. Paul Combetta in late 2014 or early 2015 that could have been related to the alienation of federal records or destruction of records sought by Congress. The limitations also excluded any emails not sent or received at one of the four email addresses used by Secretary Clinton. As I described in the October 5 letter to the Justice Department, Mr. Combetta deleted all of Secretary Clinton's emails from January 2009 to October 2014, which he admitted to in his February 2016 interview with the FBI – his second of three interviews.

¹ 18 U.S.C. § 2071; 18 U.S.C. § 1505.

It is absolutely astounding that the Justice Department would agree to such limitations, especially when it knew that in late March 2015, Mr. Combetta had apparently deleted Secretary Clinton's emails after a conference call with Secretary Clinton's attorneys. In your public announcement, you indicated that "...we found no evidence that any of the additional work-related e-mails were intentionally deleted in an effort to conceal them."² But your announcement did not make clear that the FBI cannot find what it's not allowed to look for. We now know that the FBI's ability to look for evidence of intent to conceal records was limited by the agreement that the Justice Department negotiated with Secretary Clinton's senior aides in order to obtain the evidence voluntarily. As a result, there are reasonable grounds to be skeptical of the thoroughness of the FBI's initial investigation.

Now, according to news reports, the FBI has finally obtained access to emails pertinent to this matter through a search warrant rather than through the consent of those being investigated. However, it is unclear whether the scope of the email review now being done will be similarly limited to only the timeframe when Secretary Clinton was at the State Department. Obviously, any potential evidence of intent to conceal information from investigators would have been created during the investigations, which occurred after she left office, not before.

Accordingly, please explain:

1. Are the press reports that the FBI has obtained a search warrant accurate? If so, when was that warrant application filed with a court, before or after your October 28, 2016 letter to Congress?
2. Which court authorized the search warrant?
3. Does the scope of the authorized search include communications between Secretary Clinton and her senior aides after she left office, during the time frame when emails were deleted using BleachBit, a software program specifically designed to destroy and prevent recovery? If not, why not?
4. Did the Justice Department resist the FBI's request for a warrant? If so, what reasons were given for that resistance?
5. When was the first request for a search warrant made to the Justice Department?

² Statement by Director James Comey on the Investigation of Secretary Hillary Clinton's Use of a Personal E-Mail System (July 5, 2015). Available at <https://www.fbi.gov/news/pressrel/press-releases/statement-by-fbi-director-james-b-comey-on-the-investigation-of-secretary-hillary-clinton2019s-use-of-a-personal-e-mail-system>

6. How many times has the FBI requested the Justice Department apply for a search warrant in this matter? For each request, please note whether the warrant application was authorized and if it was not, please describe the reason why not.

I anticipate that your written reply and any responsive documents will be unclassified. Please send all unclassified material directly to the Committee. In keeping with the requirements of Executive Order 13526, if any of the responsive documents do contain classified information, please segregate all unclassified material within the classified documents, provide all unclassified information directly to the Committee, and provide a classified addendum to the Office of Senate Security. Although the Committee complies with all laws and regulations governing the handling of classified information, it is not bound, absent its prior agreement, by any handling restrictions or instructions on unclassified information unilaterally asserted by the Executive Branch.

Thank you in advance for your cooperation with this request. Please answer the questions according to their corresponding numbers and respond no later than November 17, 2016. If you have questions, contact Josh Flynn-Brown of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary