



July 25, 2019

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Chief, Initial Request Staff  
Office of Information Policy  
Department of Justice  
Suite 11050  
1425 New York Avenue, N.W.  
Washington, D.C. 20530-0001



**RE: FOIA Request for Records of James Comey and Other FBI Officials' Communications With or About Anthony Ferrante, Jordan Rae Kelly, and/or Tashina Gauhar**

Dear Sir or Ma'am:

This letter is a request ("Request") in accordance with the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and the corresponding department/agency implementing regulations.

The Request is made by the American Center for Law and Justice ("ACLJ")<sup>1</sup> on behalf of its members. The ACLJ respectfully seeks expedited processing and a waiver of fees related to this Request as set forth in an accompanying memorandum.

To summarize, this Request seeks records pertaining to the Federal Bureau of Investigation's (FBI) former Director, James Comey, and his communications with or about, and/or any records regarding, Anthony Ferrante, Jordan Rae Kelly, and/or Tashina Gauhar; as well as any communications with and/or files regarding Anthony Ferrante, Jordan Rae Kelly, and/or Tashina Gauhar of General Counsel James Baker; Deputy Director/Acting Director Andrew McCabe; Deputy Assistant Director of Counterintelligence Peter Strzok, McCabe's Deputy Counsel, Lisa Page; and Comey's Chief of Staff, James Rybicki, David Bowdich (Director's Office - DO), Michael Steinbach (Director's Office - DO), Trisha Anderson (OGC), E.W. Bill Priestap (Counterintelligence Division - CD), and Jonathan Moffa (Counterintelligence Division - CD).

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<sup>1</sup>The ACLJ is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. The ACLJ regularly monitors governmental activity and works to inform the public of such affairs. The ACLJ and its global affiliated organizations are committed to ensuring governmental accountability and the ongoing viability of freedom and liberty in the United States and around the world.



**To the best of the Requestor’s knowledge and belief, this Request seeks records of which the Department of Justice (DOJ), and its components the National Security Division (NSD), the Office of the Attorney General (AG), the Office of the Deputy Attorney General (DAG), the Criminal Division (CD), the Office of Legal Counsel (OLC), the Office of Legal Policy (OLP), the Executive Office for United States Attorneys (EOUSA), and the Federal Bureau of Investigations (FBI), would be custodians.**

### **Background**

Pursuant to DOJ FOIA regulation 28 C.F.R. §16.3(b), this Background addresses “the date, title or name, author, recipient, subject matter of the record[s]” requested, to the extent known.

According to a breaking news report by *RealClearInvestigations*, “Comey had an agent inside the White House who reported back to FBI headquarters about Trump and his aides, according to other officials familiar with the matter.”<sup>2</sup> According to the report:

At the same time Comey was personally scrutinizing the president during meetings in the White House and phone conversations from the FBI, he had an agent inside the White House working on the Russia investigation, where he reported back to FBI headquarters about Trump and his aides, according to officials familiar with the matter. The agent, Anthony Ferrante, who specialized in cyber crime, left the White House around the same time Comey was fired and soon joined a security consulting firm, where he contracted with BuzzFeed to lead the news site’s efforts to verify the Steele dossier, in connection with a defamation lawsuit.

Knowledgeable sources inside the Trump White House say Comey carved out an extraordinary new position for Ferrante, which allowed him to remain on reserve status at the FBI while working in the White House as a cybersecurity adviser.

“In an unprecedented action, Comey created a new FBI reserve position for Ferrante, enabling him to have an ongoing relationship with the agency, retaining his clearances and enabling him to come back in [to bureau headquarters],” said a former National Security Council official who requested anonymity.

“Between the election and April 2017, when Ferrante finally left the White House, the Trump NSC division supervisor was not allowed to get rid of Ferrante,” he added, “and Ferrante continued working — in direct conflict with the no-contact policy between the White House and the Department of Justice.”<sup>3</sup>

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<sup>2</sup> Paul Sperry, *Justice Dept. Watchdog Has Evidence Comey Probed Trump, on the Sly*, REALCLEARINVESTIGATIONS (July 22, 2019), [https://www.realclearinvestigations.com/articles/2019/07/22/comey\\_under\\_scrutiny\\_for\\_own\\_inquiry\\_and\\_misleading\\_trump\\_119584.html](https://www.realclearinvestigations.com/articles/2019/07/22/comey_under_scrutiny_for_own_inquiry_and_misleading_trump_119584.html).

<sup>3</sup> *Id.*

Further:

Another FBI official, Jordan Rae Kelly, who worked closely with Mueller when he headed the bureau, replaced Ferrante upon his White House exit (though she signed security logs for him to continue entering the White House as a visitor while he was working for BuzzFeed). Kelly left the White House last year and joined Ferrante at FTI Consulting.

Working with Comey liaison Ferrante at the NSC in early 2017 was another Obama holdover — Tashina Gauhar, who remains a top national security adviser at the Justice Department.

In January 2017, Gauhar assisted former acting Attorney General Sally Yates in the Flynn investigation. Later, she helped Deputy Attorney General Rod Rosenstein resist, initially, Trump’s order to fire Comey. Gauhar also took copious notes during her meetings with White House lawyers, which were cited by Mueller in the section of his report dealing with obstruction of justice.<sup>4</sup>

### **Records Requested**

For purposes of this Request, the term “record” is “any information” that qualifies under 5 U.S.C. § 552(f), and includes, but is not limited to, the original or any full, complete and unedited copy of any log, chart, list, memorandum, note, correspondence, writing of any kind, policy, procedure, guideline, agenda, handout, report, transcript, set of minutes or notes, video, photo, audio recordings, or other material. The term “record” also includes, but is not limited to, all relevant information created, stored, received or delivered in any electronic or digital format, e.g., electronic mail, instant messaging or Facebook Messenger, iMessage, text messages or any other means of communication, and any information generated, sent, received, reviewed, stored or located on a government *or private* account or server, consistent with the holdings of *Competitive Enterprise Institute v. Office of Science and Technology Policy*, No. 15-5128 (D.C. Cir. July 5, 2016) (rejecting agency argument that emails on private email account were not under agency control, and holding, “If a department head can deprive the citizens of their right to know what his department is up to by the simple expedient of maintaining his departmental emails on an account in another domain, that purpose is hardly served.”).

For purposes of this Request, the term “briefing” includes, but is not limited to, any meeting, teleconference, electronic communication, or other means of gathering or communicating by which information was conveyed to one or more person(s). For purposes of this Request, all sources, documents, letters, reports, briefings, articles and press releases cited in this Request are incorporated by reference as if fully set forth herein.

**For purposes of this Request, and unless otherwise indicated, the timeframe of records requested herein is January 1, 2016, through January 1, 2019.**

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<sup>4</sup> *Id.*

Pursuant to FOIA, 5 U.S.C. § 552, ACLJ hereby requests that the FBI respond to the following numbered requests and produce all responsive records:

1. All records concerning or relating in any manner to the communications of former FBI Director James Comey with or about, including forwarded email messages or CC or BCC email messages, and/or any records of James Comey regarding, Anthony Ferrante, Jordan Rae Kelly, or Tashina Gauhar.
2. All records concerning or relating in any manner to the communications of General Counsel James Baker; Deputy Director/Acting Director Andrew McCabe; Deputy Assistant Director of Counterintelligence Peter Strzok, McCabe's Deputy Counsel, Lisa Page; and Comey's Chief of Staff, James Rybicki, David Bowdich (Director's Office - DO), Michael Steinbach (Director's Office - DO), Trisha Anderson (OGC), E.W. Bill Priestap (Counterintelligence Division - CD), and Jonathan Moffa (Counterintelligence Division - CD), with or about, including forwarded email messages or CC or BCC email messages, and/or any other records ever under the custody or control of these individuals, regarding Anthony Ferrante, Jordan Rae Kelly, or Tashina Gauhar.
3. All of James Comey's emails from April 1, 2016, to May 31, 2017.

#### CONCLUSION

If this Request is denied in whole or in part, ACLJ requests that, within the time requirements imposed by FOIA, you support all denials by reference to specific FOIA exemptions and provide any judicially required explanatory information, including but not limited to, a *Vaughn* Index.

Moreover, as explained in an accompanying memorandum, the ACLJ is entitled to expedited processing of this Request as well as a waiver of all fees associated with it. The ACLJ reserves the right to appeal a decision to withhold any information sought by this request and/or to deny the separate application for expedited processing and waiver of fees.

Thank you for your prompt consideration of this Request. Please furnish all applicable records and direct any responses to:

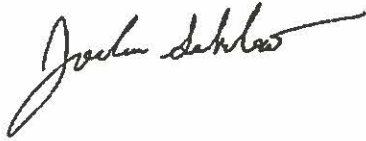
Jordan Sekulow, Executive Director  
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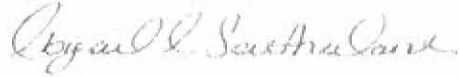
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I affirm that the foregoing request and attached documentation are true and correct to the best of my knowledge and belief.

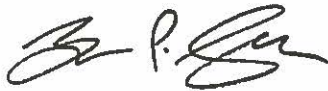
Respectfully submitted,



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