

AUTHORIZATION

Pursuant to 5 CFR 2635.502(d), I hereby authorize Robert Mueller's participation in the investigation into Russia's role in the presidential campaign of 2016 and all matters arising from the investigation.



Scott Schools
Associate Deputy Attorney General

5/18/17

Date

From: Allen, Michael (JMD DAAG)
</o=exchangelabs/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=1dded43cffce45a09ec93c931c2d
056c-mallen>
To: Shaw, Cynthia K. (JMD)
</o=exchangelabs/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=2f356f59cbb941f58170b0c0a0da
e65f-shaw, cynth>
Cc:
Bcc:
Subject: Fwd: U.S. Department of Justice Deputy Attorney General News Update
Date: Wed May 17 2017 22:07:51 EDT
Attachments:

Cindy

Looks like the appointment was effective today from this. Will confirm in the morning.

Mike

Begin forwarded message:

From: U.S. Department of Justice <usdoj@public.govdelivery.com>
Date: May 17, 2017 at 6:16:37 PM EDT
To: <michael.allen3@usdoj.gov>
Subject: U.S. Department of Justice Deputy Attorney General News Update
Reply-To: <usdoj@public.govdelivery.com>

You are subscribed to the U.S. Department of Justice Deputy Attorney General News and Speeches.
This information has recently been updated with the following:

Appointment of Special Counsel
05/17/2017 12:00 AM EDT

Deputy Attorney General Rod J. Rosenstein today announced the appointment of former Department of Justice official and FBI Director Robert S. Mueller III to serve as Special Counsel to oversee the previously-confirmed FBI investigation of Russian government efforts to influence the 2016 presidential election and related matters.

| | |

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From: Josh Gerstein <jgerstein@politico.com>
To: Shaw, Cynthia K. (JMD)
</o=exchangelabs/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=2f356f59cbb941f58170b0c0a0da
e65f-shaw, cynth>
Cc:
Bcc:
Subject: Q re Mueller appointment
Date: Thu May 18 2017 10:33:43 EDT
Attachments:

Hi Ms. Shaw:

I'm not sure if this is a matter that's been brought to your attention, but I wanted to share this article regarding ethics regulations, Mr. Mueller's appointment as special counsel, and clients of the law firm he is departing from to take the post.

<http://www.politico.com/story/2017/05/17/mueller-clients-special-prosecutor-238532>

Can you advise whether you've issued an opinion or authorization clearing this or whether you do not believe the rules apply in the way Mr. Painter said?

Thanks

--Josh Gerstein

Josh Gerstein

Reporter

POLITICO

(b) (6) (w)

(b) (6) (c)

From: Shaw, Cynthia K. (JMD)
<cshaw@jmd.usdoj.gov>
To: Allen, Michael (JMD DAAG)
<mallen@jmd.usdoj.gov>; Lofthus, Lee J (JMD)
<llofthus@jmd.usdoj.gov>
Cc: Scofield, Megan L. (JMD)
<mlscofield@jmd.usdoj.gov>; Harwood, Stacy L.
(JMD) <sharwood@jmd.usdoj.gov>
Bcc:
Subject: Office of Special Counsel
Date: Thu May 25 2017 10:51:52 EDT
Attachments:

Fyi, I just scheduled an ethics briefing with Mr. Mueller and his staff tomorrow at 10:00 a.m. in their offices.

Cindy

Cynthia K. Shaw
Director
Departmental Ethics Office
U.S. Department of Justice
145 N Street, NE
Washington, DC 20530
(202) 514-8196

From: Shaw, Cynthia K. (JMD)
<cshaw@jmd.usdoj.gov>
To: Dornburg, Erica M. (JMD)
<edornburg@jmd.usdoj.gov>
Cc:
Bcc:
Subject: WaPo story
Date: Wed Aug 09 2017 09:38:16 EDT
Attachments:

https://www.washingtonpost.com/world/national-security/mueller-several-team-members-gave-up-million-dollar-jobs-to-work-on-special-counsel-investigation/2017/08/08/e11169da-7b78-11e7-83c7-5bd5460f0d7e_story.html?hpid=hp_hp-more-top-stories_specialcounsel-902pm%3Ahomepage%2Fstory

Cynthia K. Shaw
Director
Departmental Ethics Office
U.S. Department of Justice
145 N Street, NE
Washington, DC 20530
(202) 514-8196

From: DoJ Real Time News Clips
<alert-doj@rendon.com>
To: DOJ.News.Clips
</o=exchangelabs/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=37354be691894c3bb6f0d3a9d4cd
ff3a-doj.news.cl>
Cc:
Bcc:
Subject: Washington Times: Andrew Miller, Roger Stone associate, challenges Mueller's
authority in D.C. appeals court
Date: Wed Sep 12 2018 12:49:33 EDT
Attachments:

Washington Times: Andrew Miller, Roger Stone associate, challenges
Mueller's authority in D.C. appeals court

Media: Washington Times

Byline: Andrew Blake

Date: 12 September 2018

Hyperlink:

<https://www.washingtontimes.com/news/2018/sep/12/andrew-miller-roger-stone-associate-challenges-rob/>

An attorney for Andrew Miller, an associate of President Trump's former campaign adviser Roger Stone, filed a brief in federal appeals court early Wednesday challenging Robert Mueller's appointment as special counsel.

Filed in the D.C. Circuit Court of Appeals, the brief by Mr. Miller's attorney questioned Mr. Mueller's authority — in light of Mr. Miller being held in contempt of court for refusing to comply with a subpoena issued by the special counsel's office as part of its investigation into the 2016 race.

"In sum, the purported appointment of the Special Counsel violated the Appointments Clause because the Special Counsel was required to be appointed by Attorney General Jeff Sessions and not Deputy Attorney General Rod Rosenstein," Paul Kamenar argued in the brief.

A former FBI director, Mr. Mueller was picked to lead the bureau's probe into the 2016 election after Mr. Trump fired his successor, James B. Comey, last May, roughly two months after Mr. Sessions, a former Trump campaign surrogate, vowed to recuse himself from any investigative matters related to the race.

"While General Sessions may have recused himself from a certain investigation, he cannot divest himself of or delegate his constitutional duty to appoint the investigator," Mr. Kamenar argued in the brief.

A spokesperson for the special counsel's office declined to comment.

END

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The original recipient is currently subscribed to alert-doj as: DOJ.News.Clips@usdoj.gov

From: Monica Felter (b) (6) <[REDACTED]>
To: Felter, Monica (JMD)
</o=exchangelabs/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=e6b3023793cc4548a4af49f0a103
6d20-mfelter>
Cc:
Bcc:
Subject: The Washington Post: Rosenstein-McCabe feud dates back to angry standoff in front of
Mueller
Date: Sun Oct 14 2018 18:01:30 EDT
Attachments:

Rosenstein-McCabe feud dates back to angry standoff in front of Mueller
The Washington Post

In a private meeting with the special counsel, the two sought to push each other out of the Russia
probe. Read the full story

Shared from Apple News

Sent from my iPhone

From: Greer, Christopher M. (JMD)
</o=exchangelabs/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=36524bce18a4474ca26cf6d1a5e5
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To: Allen, Michael (JMD DAAG)
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3ea1-ccalvarez>; Naccarato, Thomas M (JMD)
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5a71-tnaccarato>; Selweski, Mark E (JMD)
</o=exchangelabs/ou=exchange administrative group
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1e3c-mselweski>; Lauria, Jolene A (JMD)
</o=exchangelabs/ou=exchange administrative group
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7858-jlauria>; Lyons, Maureen (JMD)
</o=exchangelabs/ou=exchange administrative group
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administrative group
(fydibohf23spdlt)/cn=recipients/cn=dff6a2e0c53d45cb9495bfa6a9cd
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069a-gary, arthu>; Harwood, Stacy L. (JMD)
</o=exchangelabs/ou=exchange administrative group
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d020-stacy l. ha>; Dunlap, James L (JMD)
</o=exchangelabs/ou=exchange administrative group
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56cf-jdunlap>; Frone, Jamila (OARM)
</o=exchangelabs/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=542324a49637449a9a7a87debb76
96a4-jfrone>; Shaw, Cynthia K. (JMD)
</o=exchangelabs/ou=exchange administrative group
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e65f-shaw, cynth>; Plante, Jeanette (JMD)

</o=exchangelabs/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=92f1e58079e244dab4450ccfd262
314e-jplante>

Cc:
Bcc:
Subject: RE: Special Counsel Support Meeting
Date: Thu May 18 2017 22:58:47 EDT
Attachments: image001.png
image002.png

The email addresses and accounts have been set up for the initial 4 resources. Please see below for the email address:

***** Robert Mueller

(b) (6)

(b) (6)

***** Aaron Zebley

(b) (6)

(b) (6)

***** (b) (6)

(b) (6)

(b) (6)

***** James Quarles

(b) (6)

(b) (6)

A new "component" has been created in the GAL under DOJ named (b) (6). You will find the four resources there. If you do not, Outlook may require a manual refresh of the GAL. Please see below for instructions.

1. Click File tab, Click on Account Settings, and then click Download Address Book.
2. In the Offline Address Book dialog box, make sure that the Download changes since last Send/Receive check box is checked.

3. Click OK
4. Your Outlook Global Address Book is now up-to-date.

If anyone has any issues, please let me know and I'll get you help. My mobile number is (b) (6)

Regards,

Chris

-----Original Appointment-----

From: Allen, Michael (JMD DAAG)

Sent: Thursday, May 18, 2017 11:50 AM

To: Allen, Michael (JMD DAAG); Santangelo, Mari (JMD); Klimavicz, Joseph (JMD); Deeley, Kevin (JMD); Snell, Scott (JMD); Greer, Christopher M. (JMD); Alvarez, Christopher C (JMD); Naccarato, Thomas M (JMD); Selweski, Mark E (JMD); Lauria, Jolene A (JMD); Lyons, Maureen (JMD); Lofthus, Lee J (JMD); Gary, Arthur (JMD); Harwood, Stacy L. (JMD); Dunlap, James L (JMD); Frone, Jamila (OARM); Shaw, Cynthia K. (JMD); Plante, Jeanette (JMD)

Subject: Special Counsel Support Meeting

When: Thursday, May 18, 2017 3:30 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: RFK - 1103

Importance: High

Please attend in person if all possible. Urgent.

From: Shaw, Cynthia K. (JMD)
</o=exchangelabs/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=2f356f59cbb941f58170b0c0a0da
e65f-shaw, cynth>
To: Felter, Monica (JMD)
</o=exchangelabs/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=e6b3023793cc4548a4af49f0a103
6d20-mfelter>
Cc: Dornburg, Erica M. (JMD)
</o=exchangelabs/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=8a6ae82cb93b469daf7894d6d6b8
5eb1-dornburg, e>
Bcc:
Subject: FW: Special Counsel Support Meeting
Date: Fri May 19 2017 08:43:17 EDT
Attachments: image001.png
image002.png

Here are the first 4 people who will serve in the Office of Special Counsel. That office is going to be treated like a separate component. For ethics purposes, anything Mr. Mueller needs approved will go to Scott Schools.

(b) (5)



From: Greer, Christopher M. (JMD)
Sent: Thursday, May 18, 2017 10:59 PM
To: Allen, Michael (JMD DAAG) <mallen@jmd.usdoj.gov>; Santangelo, Mari (JMD)
<msantangelo@jmd.usdoj.gov>; Klimavicz, Joseph (JMD) <jklimavicz@jmd.usdoj.gov>; Deeley, Kevin
(JMD) <kdeeley@jmd.usdoj.gov>; Snell, Scott (JMD) <ssnell@jmd.usdoj.gov>; Alvarez, Christopher C
(JMD) <ccalvarez@jmd.usdoj.gov>; Naccarato, Thomas M (JMD) <tnaccarato@jmd.usdoj.gov>;
Selweski, Mark E (JMD) <mselweski@jmd.usdoj.gov>; Lauria, Jolene A (JMD) <jlauria@jmd.usdoj.
gov>; Lyons, Maureen (JMD) <mlyons@jmd.usdoj.gov>; Lofthus, Lee J (JMD) <llofthus@jmd.usdoj.
gov>; Gary, Arthur (JMD) <agary@jmd.usdoj.gov>; Harwood, Stacy L. (JMD) <sharwood@jmd.usdoj.
gov>; Dunlap, James L (JMD) <jdunlap@jmd.usdoj.gov>; Frone, Jamila (OARM) <jfrone@jmd.usdoj.
gov>; Shaw, Cynthia K. (JMD) <cshaw@jmd.usdoj.gov>; Plante, Jeanette (JMD) <jplante@jmd.usdoj.
gov>
Subject: RE: Special Counsel Support Meeting

The email addresses and accounts have been set up for the initial 4 resources. Please see below for the email address:

***** Robert Mueller

(b) (6)



(b) (6)

***** Aaron Zebley

(b) (6)

(b) (6)

***** (b) (6)

(b) (6)

(b) (6)

***** James Quarles

(b) (6)

(b) (6)

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3. Click OK
4. Your Outlook Global Address Book is now up-to-date.

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Regards,

Chris

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Sent: Thursday, May 18, 2017 11:50 AM

To: Allen, Michael (JMD DAAG); Santangelo, Mari (JMD); Klimavicz, Joseph (JMD); Deeley, Kevin (JMD); Snell, Scott (JMD); Greer, Christopher M. (JMD); Alvarez, Christopher C (JMD); Naccarato,

Thomas M (JMD); Selweski, Mark E (JMD); Lauria, Jolene A (JMD); Lyons, Maureen (JMD); Lofthus, Lee J (JMD); Gary, Arthur (JMD); Harwood, Stacy L. (JMD); Dunlap, James L (JMD); Frone, Jamila (OARM); Shaw, Cynthia K. (JMD); Plante, Jeanette (JMD)
Subject: Special Counsel Support Meeting
When: Thursday, May 18, 2017 3:30 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: RFK - 1103
Importance: High

Please attend in person if all possible. Urgent.

Kelley, Patrick W. (DO) (FBI)

From: Kelley, Patrick W. (DO) (FBI)
Sent: Monday, May 22, 2017 3:42 PM
To: Shaw, Cynthia K. (JMD)
Subject: Intelligence & National Security Alliance



b5 per FBI

Please let me know if you have any questions.

Patrick W. Kelley
Assistant Director
Office of Integrity and Compliance, FBI



b6 per FBI
b7C

Shaw, Cynthia K. (JMD)

From: Shaw, Cynthia K. (JMD)
Sent: Monday, May 22, 2017 3:54 PM
To: Kelley, Patrick W. (DO) (FBI)
Subject: Re: Intelligence & National Security Alliance

That is extremely helpful, Patrick. Thank you for your collective insight.
Cindy

Cynthia K. Shaw
Director
Departmental Ethics Office
U. S. Department of Justice

Sent from my iPhone

> On May 22, 2017, at 3:41 PM, Kelley, Patrick W. (DO) (FBI) wrote:

b6 per FBI
b7C
b7E

>

b5 per FBI

> Please let me know if you have any questions.

>

> Patrick W. Kelley

> Assistant Director

> Office of Integrity and Compliance, FBI >

>

b6 per FBI
b7C

Kellner, Kenneth E. (OLA)

From: Kellner, Kenneth E. (OLA)
Sent: Monday, December 4, 2017 1:39 PM
To: Allen, Michael (JMD DAAG); Shaw, Cynthia K. (JMD)
Subject: FW: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)
Attachments: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails).pdf; 2017-7-11 McCabe Continuing Conflicts (contacts) (McCabe recusal) - Gras....pdf

Mike or Cindy:

(b) (5)



Thanks,

Ken

From: Kellner, Kenneth E. (OLA)
Sent: Monday, December 04, 2017 12:03 PM
To: McKay, Shirley A (OLA) <smckay@jmd.usdoj.gov>
Cc: Johnson, Joanne E. (OLA) <jojohnson@jmd.usdoj.gov>; Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>
Subject: FW: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

Hi Shirley:

(b) (5)



Ken

From: Lasseter, David F. (OLA)
Sent: Friday, December 01, 2017 4:16 PM
To: Kellner, Kenneth E. (OLA) <kkellner@jmd.usdoj.gov>
Cc: Johnson, Joanne E. (OLA) <jojohnson@jmd.usdoj.gov>
Subject: FW: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

(b) (5)



Thanks,
David

From: Flynn-Brown, Josh (Judiciary-Rep) [mailto:jbrown@jmd.usdoj.gov] (b) (6)
Sent: Friday, December 1, 2017 10:38 AM

DOJ00017

Sent: Friday, December 1, 2017 10:50 AM

To: Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>

Cc: CEG (Judiciary-Rep) (b) (6); Foster, Jason (Judiciary-Rep)

(b) (6); Davis, Patrick (Judiciary-Rep) (b) (6)

(b) (6); Parker, Daniel (Judiciary-Rep) (b) (6); Sawyer, Heather
(Judiciary-Dem) (b) (6)

Subject: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

David,

Please find attached a letter from Chairman Grassley. Please confirm receipt and send all formal follow-up correspondence to the email addresses copied above. Thanks.

Very Respectfully,

Josh Flynn-Brown
Investigative Counsel
Chairman Charles E. Grassley
U.S. Senate Committee on the Judiciary

(b) (6)

DOJ00018

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JEFF FLAKE, ARIZONA
MIKE CRAPO, IDAHO
THOM TILLIS, NORTH CAROLINA
JOHN KENNEDY, LOUISIANA

DIANNE FEINSTEIN, CALIFORNIA
PATRICK J. LEAHY, VERMONT
RICHARD J. DURBIN, ILLINOIS
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
AL FRANKEN, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE HIRONO, HAWAII

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
JENNIFER DUCK, *Democratic Staff Director*

December 1, 2017

VIA ELECTRONIC TRANSMISSION

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:

E-mail communications recently released by the FBI in response to a Freedom of Information Act (FOIA) request show that Deputy Director Andrew McCabe may have violated the Hatch Act and corresponding Department regulations prohibiting political activity during his wife's 2015 campaign for the Virginia Senate.

According to guidance from the DOJ's Departmental Ethics Office, under 5 C.F.R. § 734.101-702, FBI employees are forbidden from "engag[ing] in political activity while on duty, in a federal facility, wearing a uniform or official insignia, or using a federally-owned or leased vehicle..."¹ The guidance also states that "further restricted" employees such as those at the FBI:

...may not use any e-mail account or social media to distribute, send or forward content that advocates for or against a partisan political party, candidate for partisan political office or partisan political group (** at all times, further restricted employees may not post links to web sites created by or leading to information created by a political party, partisan candidate or campaign*)²

However, the e-mail communications released by the FBI show that Mr. McCabe did precisely that during his wife's Virginia Senate campaign. For instance, in an August 19, 2015, e-mail from his FBI e-mail account to an undisclosed recipient, he wrote: "Jill has been busy as hell since she decided to run for VA state senate (long story). Check her out on Facebook as Dr. Jill McCabe for Senate."³ In a November 1, 2015, e-mail from his same FBI email account to an

¹ Department of Justice "Political Activities" Available at https://www.justice.gov/jmd/political_activities

² *Id.*

³ FBI Records: The Vault "Deputy Director McCabe Communications Regarding Spouses Virginia State Senate Campaign Part 01 of 01" p. 20.

DOJ00019

FBI employee, Mr. McCabe wrote: “I am so proud of her. She will do a great job for VA if she gets elected.”⁴

Departmental guidelines concerning social media sites such as Facebook are especially stringent. Employees who fall into the “further restricted” category of the Hatch Act, such as Mr. McCabe, are even directed to “adjust [social media] privacy settings so that lists of ‘friends,’ ‘likes,’ ‘interests’ and ‘pages’ with links are visible only to the employee...”⁵ The use of an FBI e-mail account to direct others to a candidate’s Facebook page appears to be precisely the type of political activity the Hatch Act and related Departmental guidance aim to prevent. Communications of this type are also especially problematic when directed toward subordinates, who can feel pressure to respond favorably to requests for support from their superiors.

For the purposes of public release in association with the FOIA request, the documents produced by the FBI are heavily redacted. For the Committee’s investigative purposes, it is necessary to see underneath the redactions to determine the individuals with whom Mr. McCabe was communicating about his wife’s Senate campaign and whether he engaged in additional political activity on official government e-mail or in other ways.

As you know, FOIA exemptions are discretionary. FOIA *requires* public disclosure unless an exemption provides the agency with discretion to withhold information. Those exemptions do not require the agency to withhold information from the public. Separately, and more importantly, FOIA exemptions do not authorize an agency to withhold information from Congress. Disclosure to Congress is not disclosure to the public and FOIA exemptions are not a basis to shield information from Congressional oversight. Therefore, please produce to the Committee un-redacted copies of all of the e-mail communications included in the FOIA request entitled: “Deputy Director McCabe Communications Regarding Spouses Virginia State Senate Campaign Part 01 of 01.” In addition, please respond to the following no later than December 15, 2017:

1. Please produce all records related to communications sent or received from Andrew McCabe, including text messages and emails, between February 25, 2015, when Jill McCabe was reportedly first contacted by the Virginia Lieutenant Governor about running for office, and December 1, 2015, that pertain to Jill McCabe’s Virginia Senate campaign.
2. What steps has the Department taken to hold Andrew McCabe accountable, and if none, please explain why not?
3. According to a March 10, 2016, memorandum from Deputy Attorney General Sally Yates to Department of Justice Career Employees: “There have... been several instances of employees sending politically-charged e-mails to colleagues while on duty, also a

⁴ *Id.* at 22.

⁵ Department of Justice “Political Activities” Available at https://www.justice.gov/jmd/political_activities

violation of the Hatch Act. OSC has imposed suspensions up to 180 days for recent violations.”⁶

- a. Please describe the procedural steps for determining and issuing a suspension from duty when a DOJ employee is found to have violated the Hatch Act or Department regulations by sending one or more politically charged e-mails. Please describe any rules or other standards that are applied.
 - b. Please provide the number of cases in which DOJ employees have been suspended for sending “politically-charged e-mails to colleagues while on duty.” Please list the agency affiliation and length of suspension for each case.
 - c. Please describe what, if any, suspension has been administered to Andrew McCabe for politically charged e-mails sent in reference to his wife’s Senate campaign. If no suspension has been issued, please explain how his case differs from others where suspensions have been issued.
4. In a June 28, 2017 letter to you, the Committee requested an un-redacted copy of the ethics and recusal protocol applied to Mr. McCabe regarding his potential conflicts of interest in ongoing and future FBI investigations. On July 11, 2017, the Justice Department refused to provide an un-redacted copy and responded that names of FBI agents and attorneys assigned to duties cannot be made public unless they have been “identified through documents filed with a court.” That is not a valid basis to withhold information from Congress, especially during the course of a congressional investigation. Please provide all written guidance the Department has used to justify withholding the requested information from the Committee.

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.

⁶ Sally Q. Yates, Deputy Attorney General “Memorandum for all Department of Justice Career Employees” (March 10, 2016), p. 4. Available at <https://www.justice.gov/jmd/file/834486/download>

Should you have any questions, please contact Josh Flynn-Brown of my Judiciary Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

cc: The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary

The Honorable Henry Kerner
Special Counsel
U.S. Office of Special Counsel



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

JUL 11 2017

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This responds to your letters to the Deputy Attorney General, dated May 2, 2017, and June 28, 2017, seeking information concerning the role of FBI Deputy Director Andrew McCabe in ongoing FBI investigations.

As you know, on May 17, 2017, the Department of Justice (Department) announced the issuance of an order appointing Robert S. Mueller III to serve as Special Counsel to oversee the previously-confirmed FBI investigation of Russian government efforts to influence the 2016 presidential election and related matters. This appointment occurred approximately two weeks after you sent your earlier letter. The Deputy Attorney General appointed Mr. Mueller because he deemed it necessary in order for the American people to have full confidence in the outcome of the investigation.

Also, on January 12, 2017, the Department's Office of the Inspector General (OIG) confirmed in a letter to you and others that it had, at the request of the addressees, initiated a review of certain allegations relating to concerns that you have raised in your letter, including allegations regarding the improper disclosure of non-public information by Department and FBI employees, and allegations that the FBI Deputy Director should have been recused from participating in certain investigative matters. The Department will defer to the OIG investigation regarding any participation by Mr. McCabe in that investigation. Consistent with the Department's long-standing policy of neither confirming nor denying investigations that have not resulted in public charges, we are not in a position to respond further to the requests set forth in your letters.

Your letter of June 28, 2017 also requests an unredacted copy of an FBI document provided on December 12, 2016, in response to your request for information concerning ethics guidance received by Deputy Director McCabe. The copy furnished redacts the names and a phone number of FBI agents and attorneys performing assigned duties. As a matter of long-standing policy, the Department declines to identify agents or attorneys who are working on a

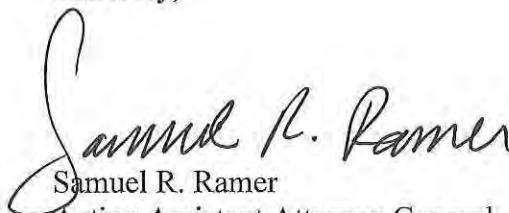
DOJ00023

The Honorable Charles E. Grassley
Page Two

particular matter unless they have already been publicly identified through documents filed with a court.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,


Samuel R. Ramer
Acting Assistant Attorney General

cc: The Honorable Dianne Feinstein
Ranking Member

DOJ00024

Kellner, Kenneth E. (OLA)

From: Kellner, Kenneth E. (OLA)
Sent: Wednesday, December 13, 2017 11:52 AM
To: Bramble, Tristan V. (JMD)
Subject: RE: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)
Attachments: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails).pdf; 2017-7-11 McCabe Continuing Conflicts (contacts) (McCabe recusal) - Gras....pdf

From: Kellner, Kenneth E. (OLA)
Sent: Monday, December 04, 2017 1:39 PM
To: Allen, Michael (JMD DAAG) <mallen@jmd.usdoj.gov>; Shaw, Cynthia K. (JMD) <cshaw@jmd.usdoj.gov>
Subject: FW: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

Mike or Cindy:

(b) (5)



Thanks,

Ken

From: Kellner, Kenneth E. (OLA)
Sent: Monday, December 04, 2017 12:03 PM
To: McKay, Shirley A (OLA) <smckay@jmd.usdoj.gov>
Cc: Johnson, Joanne E. (OLA) <jojohnson@jmd.usdoj.gov>; Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>
Subject: FW: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

Hi Shirley:

(b) (5)



Ken

From: Lasseter, David F. (OLA)
Sent: Friday, December 01, 2017 4:16 PM
To: Kellner, Kenneth E. (OLA) <kkellner@jmd.usdoj.gov>
Cc: Johnson, Joanne E. (OLA) <jojohnson@jmd.usdoj.gov>
Subject: FW: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

DOJ00025

(b) (5)

Thanks,
David

From: Flynn-Brown, Josh (Judiciary-Rep) [mailto:(b) (6)]
Sent: Friday, December 1, 2017 10:38 AM
To: Lassetter, David F. (OLA) <dlasseter@jmd.usdoj.gov>
Cc: CEG (Judiciary-Rep) <(b) (6)>; Foster, Jason (Judiciary-Rep) <(b) (6)>; Davis, Patrick (Judiciary-Rep) <(b) (6)>; Parker, Daniel (Judiciary-Rep) <(b) (6)>; Sawyer, Heather (Judiciary-Dem) <(b) (6)>
Subject: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

David,

Please find attached a letter from Chairman Grassley. Please confirm receipt and send all formal follow-up correspondence to the email addresses copied above. Thanks.

Very Respectfully,

Josh Flynn-Brown
Investigative Counsel
Chairman Charles E. Grassley
U.S. Senate Committee on the Judiciary

(b) (6)

DOJ00026

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH
LINDSEY O. GRAHAM, SOUTH CAROLINA
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DIANNE FEINSTEIN, CALIFORNIA
PATRICK J. LEAHY, VERMONT
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RICHARD BLUMENTHAL, CONNECTICUT
MAZIE K. HIRONO, HAWAII

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
JENNIFER DUCK, *Democratic Staff Director*

December 1, 2017

VIA ELECTRONIC TRANSMISSION

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:

E-mail communications recently released by the FBI in response to a Freedom of Information Act (FOIA) request show that Deputy Director Andrew McCabe may have violated the Hatch Act and corresponding Department regulations prohibiting political activity during his wife's 2015 campaign for the Virginia Senate.

According to guidance from the DOJ's Departmental Ethics Office, under 5 C.F.R. § 734.101-702, FBI employees are forbidden from "engag[ing] in political activity while on duty, in a federal facility, wearing a uniform or official insignia, or using a federally-owned or leased vehicle..."¹ The guidance also states that "further restricted" employees such as those at the FBI:

...may not use any e-mail account or social media to distribute, send or forward content that advocates for or against a partisan political party, candidate for partisan political office or partisan political group (** at all times, further restricted employees may not post links to web sites created by or leading to information created by a political party, partisan candidate or campaign*)²

However, the e-mail communications released by the FBI show that Mr. McCabe did precisely that during his wife's Virginia Senate campaign. For instance, in an August 19, 2015, e-mail from his FBI e-mail account to an undisclosed recipient, he wrote: "Jill has been busy as hell since she decided to run for VA state senate (long story). Check her out on Facebook as Dr. Jill McCabe for Senate."³ In a November 1, 2015, e-mail from his same FBI email account to an

¹ Department of Justice "Political Activities" Available at https://www.justice.gov/jmd/political_activities

² *Id.*

³ FBI Records: The Vault "Deputy Director McCabe Communications Regarding Spouses Virginia State Senate Campaign Part 01 of 01" p. 20.

DOJ00027

FBI employee, Mr. McCabe wrote: “I am so proud of her. She will do a great job for VA if she gets elected.”⁴

Departmental guidelines concerning social media sites such as Facebook are especially stringent. Employees who fall into the “further restricted” category of the Hatch Act, such as Mr. McCabe, are even directed to “adjust [social media] privacy settings so that lists of ‘friends,’ ‘likes,’ ‘interests’ and ‘pages’ with links are visible only to the employee...”⁵ The use of an FBI e-mail account to direct others to a candidate’s Facebook page appears to be precisely the type of political activity the Hatch Act and related Departmental guidance aim to prevent. Communications of this type are also especially problematic when directed toward subordinates, who can feel pressure to respond favorably to requests for support from their superiors.

For the purposes of public release in association with the FOIA request, the documents produced by the FBI are heavily redacted. For the Committee’s investigative purposes, it is necessary to see underneath the redactions to determine the individuals with whom Mr. McCabe was communicating about his wife’s Senate campaign and whether he engaged in additional political activity on official government e-mail or in other ways.

As you know, FOIA exemptions are discretionary. FOIA *requires* public disclosure unless an exemption provides the agency with discretion to withhold information. Those exemptions do not require the agency to withhold information from the public. Separately, and more importantly, FOIA exemptions do not authorize an agency to withhold information from Congress. Disclosure to Congress is not disclosure to the public and FOIA exemptions are not a basis to shield information from Congressional oversight. Therefore, please produce to the Committee un-redacted copies of all of the e-mail communications included in the FOIA request entitled: “Deputy Director McCabe Communications Regarding Spouses Virginia State Senate Campaign Part 01 of 01.” In addition, please respond to the following no later than December 15, 2017:

1. Please produce all records related to communications sent or received from Andrew McCabe, including text messages and emails, between February 25, 2015, when Jill McCabe was reportedly first contacted by the Virginia Lieutenant Governor about running for office, and December 1, 2015, that pertain to Jill McCabe’s Virginia Senate campaign.
2. What steps has the Department taken to hold Andrew McCabe accountable, and if none, please explain why not?
3. According to a March 10, 2016, memorandum from Deputy Attorney General Sally Yates to Department of Justice Career Employees: “There have... been several instances of employees sending politically-charged e-mails to colleagues while on duty, also a

⁴ *Id.* at 22.

⁵ Department of Justice “Political Activities” Available at https://www.justice.gov/jmd/political_activities

violation of the Hatch Act. OSC has imposed suspensions up to 180 days for recent violations.”⁶

- a. Please describe the procedural steps for determining and issuing a suspension from duty when a DOJ employee is found to have violated the Hatch Act or Department regulations by sending one or more politically charged e-mails. Please describe any rules or other standards that are applied.
 - b. Please provide the number of cases in which DOJ employees have been suspended for sending “politically-charged e-mails to colleagues while on duty.” Please list the agency affiliation and length of suspension for each case.
 - c. Please describe what, if any, suspension has been administered to Andrew McCabe for politically charged e-mails sent in reference to his wife’s Senate campaign. If no suspension has been issued, please explain how his case differs from others where suspensions have been issued.
4. In a June 28, 2017 letter to you, the Committee requested an un-redacted copy of the ethics and recusal protocol applied to Mr. McCabe regarding his potential conflicts of interest in ongoing and future FBI investigations. On July 11, 2017, the Justice Department refused to provide an un-redacted copy and responded that names of FBI agents and attorneys assigned to duties cannot be made public unless they have been “identified through documents filed with a court.” That is not a valid basis to withhold information from Congress, especially during the course of a congressional investigation. Please provide all written guidance the Department has used to justify withholding the requested information from the Committee.

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.

⁶ Sally Q. Yates, Deputy Attorney General “Memorandum for all Department of Justice Career Employees” (March 10, 2016), p. 4. Available at <https://www.justice.gov/jmd/file/834486/download>

Should you have any questions, please contact Josh Flynn-Brown of my Judiciary Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

cc: The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary

The Honorable Henry Kerner
Special Counsel
U.S. Office of Special Counsel



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

JUL 11 2017

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This responds to your letters to the Deputy Attorney General, dated May 2, 2017, and June 28, 2017, seeking information concerning the role of FBI Deputy Director Andrew McCabe in ongoing FBI investigations.

As you know, on May 17, 2017, the Department of Justice (Department) announced the issuance of an order appointing Robert S. Mueller III to serve as Special Counsel to oversee the previously-confirmed FBI investigation of Russian government efforts to influence the 2016 presidential election and related matters. This appointment occurred approximately two weeks after you sent your earlier letter. The Deputy Attorney General appointed Mr. Mueller because he deemed it necessary in order for the American people to have full confidence in the outcome of the investigation.

Also, on January 12, 2017, the Department's Office of the Inspector General (OIG) confirmed in a letter to you and others that it had, at the request of the addressees, initiated a review of certain allegations relating to concerns that you have raised in your letter, including allegations regarding the improper disclosure of non-public information by Department and FBI employees, and allegations that the FBI Deputy Director should have been recused from participating in certain investigative matters. The Department will defer to the OIG investigation regarding any participation by Mr. McCabe in that investigation. Consistent with the Department's long-standing policy of neither confirming nor denying investigations that have not resulted in public charges, we are not in a position to respond further to the requests set forth in your letters.

Your letter of June 28, 2017 also requests an unredacted copy of an FBI document provided on December 12, 2016, in response to your request for information concerning ethics guidance received by Deputy Director McCabe. The copy furnished redacts the names and a phone number of FBI agents and attorneys performing assigned duties. As a matter of long-standing policy, the Department declines to identify agents or attorneys who are working on a

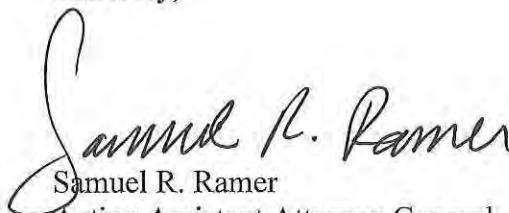
DOJ00031

The Honorable Charles E. Grassley
Page Two

particular matter unless they have already been publicly identified through documents filed with a court.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,


Samuel R. Ramer
Acting Assistant Attorney General

cc: The Honorable Dianne Feinstein
Ranking Member

DOJ00032

Kellner, Kenneth E. (OLA)

From: Kellner, Kenneth E. (OLA)
Sent: Wednesday, December 13, 2017 11:54 AM
To: Shaw, Cynthia K. (JMD)
Subject: FW: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)
Attachments: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails).pdf; 2017-7-11 McCabe Continuing Conflicts (contacts) (McCabe recusal) - Gras....pdf

Hi Cindy:

(b) (5)



Thanks!

Ken

From: Kellner, Kenneth E. (OLA)
Sent: Wednesday, December 13, 2017 11:52 AM
To: Bramble, Tristan V. (JMD) <tbramble@jmd.usdoj.gov>
Subject: RE: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

From: Kellner, Kenneth E. (OLA)
Sent: Monday, December 04, 2017 1:39 PM
To: Allen, Michael (JMD DAAG) <mallen@jmd.usdoj.gov>; Shaw, Cynthia K. (JMD) <cshaw@jmd.usdoj.gov>
Subject: FW: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

Mike or Cindy:

(b) (5)



Thanks,

Ken

From: Kellner, Kenneth E. (OLA)
Sent: Monday, December 04, 2017 12:03 PM
To: McKay, Shirley A (OLA) <smckay@jmd.usdoj.gov>
Cc: Johnson, Joanne E. (OLA) <jojohnson@jmd.usdoj.gov>; Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>
Subject: FW: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

DOJ00033

Subject: FW: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

Hi Shirley:

(b) (5)

Ken

From: Lasseter, David F. (OLA)
Sent: Friday, December 01, 2017 4:16 PM
To: Kellner, Kenneth E. (OLA) <kkellner@jmd.usdoj.gov>
Cc: Johnson, Joanne E. (OLA) <jojohnson@jmd.usdoj.gov>
Subject: FW: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

(b) (5)

Thanks,
David

From: Flynn-Brown, Josh (Judiciary-Rep) [[\(b\) \(6\)](mailto:(b) (6))]
Sent: Friday, December 1, 2017 10:38 AM
To: Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>
Cc: CEG (Judiciary-Rep) (b) (6); Foster, Jason (Judiciary-Rep) <Jason.Foster@judiciary-rep.senate.gov>; Davis, Patrick (Judiciary-Rep) (b) (6); (b) (6); Parker, Daniel (Judiciary-Rep) (b) (6); Sawyer, Heather (Judiciary-Dem) (b) (6)
Subject: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

David,

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Very Respectfully,

Josh Flynn-Brown
Investigative Counsel
Chairman Charles E. Grassley
U.S. Senate Committee on the Judiciary

(b) (6)

DOJ00034

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH	DIANNE FEINSTEIN, CALIFORNIA
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BEN SASSE, NEBRASKA	AL FRANKEN, MINNESOTA
JEFF FLAKE, ARIZONA	CHRISTOPHER A. COONS, DELAWARE
MIKE CRAPO, IDAHO	RICHARD BLUMENTHAL, CONNECTICUT
THOM TILLIS, NORTH CAROLINA	MAZIE HIRONO, HAWAII
JOHN KENNEDY, LOUISIANA	

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
JENNIFER DUCK, *Democratic Staff Director*

December 1, 2017

VIA ELECTRONIC TRANSMISSION

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:

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According to guidance from the DOJ's Departmental Ethics Office, under 5 C.F.R. § 734.101-702, FBI employees are forbidden from "engag[ing] in political activity while on duty, in a federal facility, wearing a uniform or official insignia, or using a federally-owned or leased vehicle..."¹ The guidance also states that "further restricted" employees such as those at the FBI:

...may not use any e-mail account or social media to distribute, send or forward content that advocates for or against a partisan political party, candidate for partisan political office or partisan political group (* *at all times, further restricted employees may not post links to web sites created by or leading to information created by a political party, partisan candidate or campaign*)²

However, the e-mail communications released by the FBI show that Mr. McCabe did precisely that during his wife's Virginia Senate campaign. For instance, in an August 19, 2015, e-mail from his FBI e-mail account to an undisclosed recipient, he wrote: "Jill has been busy as hell since she decided to run for VA state senate (long story). Check her out on Facebook as Dr. Jill McCabe for Senate."³ In a November 1, 2015, e-mail from his same FBI email account to an

¹ Department of Justice "Political Activities" Available at https://www.justice.gov/jmd/political_activities

² *Id.*

³ FBI Records: The Vault "Deputy Director McCabe Communications Regarding Spouses Virginia State Senate Campaign Part 01 of 01" p. 20.

DOJ00035

FBI employee, Mr. McCabe wrote: “I am so proud of her. She will do a great job for VA if she gets elected.”⁴

Departmental guidelines concerning social media sites such as Facebook are especially stringent. Employees who fall into the “further restricted” category of the Hatch Act, such as Mr. McCabe, are even directed to “adjust [social media] privacy settings so that lists of ‘friends,’ ‘likes,’ ‘interests’ and ‘pages’ with links are visible only to the employee...”⁵ The use of an FBI e-mail account to direct others to a candidate’s Facebook page appears to be precisely the type of political activity the Hatch Act and related Departmental guidance aim to prevent. Communications of this type are also especially problematic when directed toward subordinates, who can feel pressure to respond favorably to requests for support from their superiors.

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Should you have any questions, please contact Josh Flynn-Brown of my Judiciary Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

cc: The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary

The Honorable Henry Kerner
Special Counsel
U.S. Office of Special Counsel



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

JUL 11 2017

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This responds to your letters to the Deputy Attorney General, dated May 2, 2017, and June 28, 2017, seeking information concerning the role of FBI Deputy Director Andrew McCabe in ongoing FBI investigations.

As you know, on May 17, 2017, the Department of Justice (Department) announced the issuance of an order appointing Robert S. Mueller III to serve as Special Counsel to oversee the previously-confirmed FBI investigation of Russian government efforts to influence the 2016 presidential election and related matters. This appointment occurred approximately two weeks after you sent your earlier letter. The Deputy Attorney General appointed Mr. Mueller because he deemed it necessary in order for the American people to have full confidence in the outcome of the investigation.

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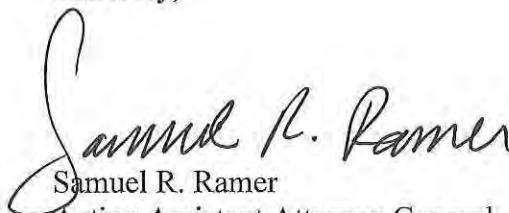
DOJ00039

The Honorable Charles E. Grassley
Page Two

particular matter unless they have already been publicly identified through documents filed with a court.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,


Samuel R. Ramer
Acting Assistant Attorney General

cc: The Honorable Dianne Feinstein
Ranking Member

DOJ00040

Bramble, Tristan V. (JMD)

From: Bramble, Tristan V. (JMD)
Sent: Wednesday, December 13, 2017 11:55 AM
To: Shaw, Cynthia K. (JMD)
Subject: FW: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)
Attachments: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails).pdf; 2017-7-11 McCabe Continuing Conflicts (contacts) (McCabe recusal) - Gras....pdf

(b) (5)



From: Kellner, Kenneth E. (OLA)
Sent: Wednesday, December 13, 2017 11:52 AM
To: Bramble, Tristan V. (JMD) <tbramble@jmd.usdoj.gov>
Subject: RE: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

From: Kellner, Kenneth E. (OLA)
Sent: Monday, December 04, 2017 1:39 PM
To: Allen, Michael (JMD DAAG) <mallen@jmd.usdoj.gov>; Shaw, Cynthia K. (JMD) <cshaw@jmd.usdoj.gov>
Subject: FW: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

Mike or Cindy:

(b) (5)



Thanks,

Ken

From: Kellner, Kenneth E. (OLA)
Sent: Monday, December 04, 2017 12:03 PM
To: McKay, Shirley A (OLA) <smckay@jmd.usdoj.gov>
Cc: Johnson, Joanne E. (OLA) <jojohnson@jmd.usdoj.gov>; Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>
Subject: FW: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

Hi Shirley:

(b) (5)



DOJ00041

Ken

From: Lasseter, David F. (OLA)
Sent: Friday, December 01, 2017 4:16 PM
To: Kellner, Kenneth E. (OLA) <kkellner@jmd.usdoj.gov>
Cc: Johnson, Joanne E. (OLA) <jojohnson@jmd.usdoj.gov>
Subject: FW: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

(b) (5)



Thanks,
David

From: Flynn-Brown, Josh (Judiciary-Rep) [[\(b\) \(6\)](mailto:(b) (6))]
Sent: Friday, December 1, 2017 10:38 AM
To: Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>
Cc: CEG (Judiciary-Rep) <(b) (6)>; Foster, Jason (Judiciary-Rep) <(b) (6)>; Davis, Patrick (Judiciary-Rep) <(b) (6)>; Parker, Daniel (Judiciary-Rep) <(b) (6)>; Sawyer, Heather (Judiciary-Dem) <(b) (6)>
Subject: 2017-12-01 CEG to DOJ (McCabe Hatch Act Emails)

David,

Please find attached a letter from Chairman Grassley. Please confirm receipt and send all formal follow-up correspondence to the email addresses copied above. Thanks.

Very Respectfully,

Josh Flynn-Brown
Investigative Counsel
Chairman Charles E. Grassley
U.S. Senate Committee on the Judiciary
(b) (6)

DOJ00042

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
JENNIFER DUCK, *Democratic Staff Director*

December 1, 2017

VIA ELECTRONIC TRANSMISSION

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:

E-mail communications recently released by the FBI in response to a Freedom of Information Act (FOIA) request show that Deputy Director Andrew McCabe may have violated the Hatch Act and corresponding Department regulations prohibiting political activity during his wife's 2015 campaign for the Virginia Senate.

According to guidance from the DOJ's Departmental Ethics Office, under 5 C.F.R. § 734.101-702, FBI employees are forbidden from "engag[ing] in political activity while on duty, in a federal facility, wearing a uniform or official insignia, or using a federally-owned or leased vehicle..."¹ The guidance also states that "further restricted" employees such as those at the FBI:

...may not use any e-mail account or social media to distribute, send or forward content that advocates for or against a partisan political party, candidate for partisan political office or partisan political group (** at all times, further restricted employees may not post links to web sites created by or leading to information created by a political party, partisan candidate or campaign*)²

However, the e-mail communications released by the FBI show that Mr. McCabe did precisely that during his wife's Virginia Senate campaign. For instance, in an August 19, 2015, e-mail from his FBI e-mail account to an undisclosed recipient, he wrote: "Jill has been busy as hell since she decided to run for VA state senate (long story). Check her out on Facebook as Dr. Jill McCabe for Senate."³ In a November 1, 2015, e-mail from his same FBI email account to an

¹ Department of Justice "Political Activities" Available at https://www.justice.gov/jmd/political_activities

² *Id.*

³ FBI Records: The Vault "Deputy Director McCabe Communications Regarding Spouses Virginia State Senate Campaign Part 01 of 01" p. 20.

DOJ00043

FBI employee, Mr. McCabe wrote: “I am so proud of her. She will do a great job for VA if she gets elected.”⁴

Departmental guidelines concerning social media sites such as Facebook are especially stringent. Employees who fall into the “further restricted” category of the Hatch Act, such as Mr. McCabe, are even directed to “adjust [social media] privacy settings so that lists of ‘friends,’ ‘likes,’ ‘interests’ and ‘pages’ with links are visible only to the employee...”⁵ The use of an FBI e-mail account to direct others to a candidate’s Facebook page appears to be precisely the type of political activity the Hatch Act and related Departmental guidance aim to prevent. Communications of this type are also especially problematic when directed toward subordinates, who can feel pressure to respond favorably to requests for support from their superiors.

For the purposes of public release in association with the FOIA request, the documents produced by the FBI are heavily redacted. For the Committee’s investigative purposes, it is necessary to see underneath the redactions to determine the individuals with whom Mr. McCabe was communicating about his wife’s Senate campaign and whether he engaged in additional political activity on official government e-mail or in other ways.

As you know, FOIA exemptions are discretionary. FOIA *requires* public disclosure unless an exemption provides the agency with discretion to withhold information. Those exemptions do not require the agency to withhold information from the public. Separately, and more importantly, FOIA exemptions do not authorize an agency to withhold information from Congress. Disclosure to Congress is not disclosure to the public and FOIA exemptions are not a basis to shield information from Congressional oversight. Therefore, please produce to the Committee un-redacted copies of all of the e-mail communications included in the FOIA request entitled: “Deputy Director McCabe Communications Regarding Spouses Virginia State Senate Campaign Part 01 of 01.” In addition, please respond to the following no later than December 15, 2017:

1. Please produce all records related to communications sent or received from Andrew McCabe, including text messages and emails, between February 25, 2015, when Jill McCabe was reportedly first contacted by the Virginia Lieutenant Governor about running for office, and December 1, 2015, that pertain to Jill McCabe’s Virginia Senate campaign.
2. What steps has the Department taken to hold Andrew McCabe accountable, and if none, please explain why not?
3. According to a March 10, 2016, memorandum from Deputy Attorney General Sally Yates to Department of Justice Career Employees: “There have... been several instances of employees sending politically-charged e-mails to colleagues while on duty, also a

⁴ *Id.* at 22.

⁵ Department of Justice “Political Activities” Available at https://www.justice.gov/jmd/political_activities

violation of the Hatch Act. OSC has imposed suspensions up to 180 days for recent violations.”⁶

- a. Please describe the procedural steps for determining and issuing a suspension from duty when a DOJ employee is found to have violated the Hatch Act or Department regulations by sending one or more politically charged e-mails. Please describe any rules or other standards that are applied.
 - b. Please provide the number of cases in which DOJ employees have been suspended for sending “politically-charged e-mails to colleagues while on duty.” Please list the agency affiliation and length of suspension for each case.
 - c. Please describe what, if any, suspension has been administered to Andrew McCabe for politically charged e-mails sent in reference to his wife’s Senate campaign. If no suspension has been issued, please explain how his case differs from others where suspensions have been issued.
4. In a June 28, 2017 letter to you, the Committee requested an un-redacted copy of the ethics and recusal protocol applied to Mr. McCabe regarding his potential conflicts of interest in ongoing and future FBI investigations. On July 11, 2017, the Justice Department refused to provide an un-redacted copy and responded that names of FBI agents and attorneys assigned to duties cannot be made public unless they have been “identified through documents filed with a court.” That is not a valid basis to withhold information from Congress, especially during the course of a congressional investigation. Please provide all written guidance the Department has used to justify withholding the requested information from the Committee.

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.

⁶ Sally Q. Yates, Deputy Attorney General “Memorandum for all Department of Justice Career Employees” (March 10, 2016), p. 4. Available at <https://www.justice.gov/jmd/file/834486/download>

Should you have any questions, please contact Josh Flynn-Brown of my Judiciary Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

cc: The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary

The Honorable Henry Kerner
Special Counsel
U.S. Office of Special Counsel



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

JUL 11 2017

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This responds to your letters to the Deputy Attorney General, dated May 2, 2017, and June 28, 2017, seeking information concerning the role of FBI Deputy Director Andrew McCabe in ongoing FBI investigations.

As you know, on May 17, 2017, the Department of Justice (Department) announced the issuance of an order appointing Robert S. Mueller III to serve as Special Counsel to oversee the previously-confirmed FBI investigation of Russian government efforts to influence the 2016 presidential election and related matters. This appointment occurred approximately two weeks after you sent your earlier letter. The Deputy Attorney General appointed Mr. Mueller because he deemed it necessary in order for the American people to have full confidence in the outcome of the investigation.

Also, on January 12, 2017, the Department's Office of the Inspector General (OIG) confirmed in a letter to you and others that it had, at the request of the addressees, initiated a review of certain allegations relating to concerns that you have raised in your letter, including allegations regarding the improper disclosure of non-public information by Department and FBI employees, and allegations that the FBI Deputy Director should have been recused from participating in certain investigative matters. The Department will defer to the OIG investigation regarding any participation by Mr. McCabe in that investigation. Consistent with the Department's long-standing policy of neither confirming nor denying investigations that have not resulted in public charges, we are not in a position to respond further to the requests set forth in your letters.

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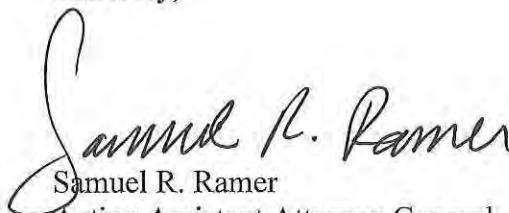
DOJ00047

The Honorable Charles E. Grassley
Page Two

particular matter unless they have already been publicly identified through documents filed with a court.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,


Samuel R. Ramer
Acting Assistant Attorney General

cc: The Honorable Dianne Feinstein
Ranking Member

DOJ00048