

# U.S. House of Representatives

## Committee on the Judiciary

Washington, DC 20515–6216

One Hundred Sixteenth Congress

May 4, 2020

The Honorable Christopher A. Wray  
Director  
Federal Bureau of Investigation  
935 Pennsylvania Avenue, N.W.  
Washington, DC 20535

Dear Director Wray:

Since President Donald Trump launched his campaign for the White House, several investigations have exposed political bias and serious misconduct in the Federal Bureau of Investigation (FBI). The Obama-Biden-era FBI used Democrat-funded opposition research and Russian disinformation—as well as doctored evidence—as a basis to illegally spy on a Trump campaign associate.<sup>1</sup> Former FBI Director James Comey caused sensitive information about his interactions with President Trump to leak to the media.<sup>2</sup> Senior FBI employees discussed an “insurance policy” against President Trump.<sup>3</sup> Now, new revelations about the FBI’s interactions with former National Security Advisor LTG Michael T. Flynn, make it clear that the FBI’s wrongdoing is worse than previously known. These revelations suggest a pattern of misconduct and politicization at the highest levels of the Obama-Biden-era FBI.

On April 29, 2020, a United States District judge unsealed documents that had been previously withheld from LTG Flynn and his legal team.<sup>4</sup> These documents reveal that the FBI had apparently sought to set a perjury trap for LTG Flynn during an interview on January 24, 2017. One newly produced document, a handwritten note dated January 24, 2017, reportedly written by FBI Assistant Director for Counterintelligence Bill Preistap, explained that the FBI’s objective was “to get him [Flynn] to lie, so we can prosecute or get him [Flynn] fired.”<sup>5</sup>

This revelation is striking because an earlier FBI memorandum, dated January 4, 2017, noted that the FBI’s Washington Field Office had found no derogatory information about LTG

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<sup>1</sup> Dep’t of Justice Off. Of Inspector Gen., Review of Four FISA Applications and Other Aspects of the FBI’s Crossfire Hurricane Investigation (Dec. 2019).

<sup>2</sup> Dep’t of Justice Off. Of Inspector Gen., Report of Investigation of Former Federal Bureau of Investigation Director James Comey’s Disclosure of Sensitive Investigative Information and Handling of Certain Memoranda (Aug. 2019).

<sup>3</sup> Dep’t of Justice Off. Of Inspector Gen., A Review of Various Actions by the Federal Bureau of Investigation and Department of Justice in Advance of the 2016 Election (June 2018).

<sup>4</sup> Letter from Timothy Shea, U.S. Atty, Dep’t of Justice, to Sidney Powell & Jesse Binnall (Apr. 29, 2020).

<sup>5</sup> Handwritten Notes, Document 188, United States v. Flynn, No. 17-000232 (D.D.C. Apr. 29, 2020).

Flynn—essentially clearing him of the allegation that he was a Russian agent—and concluded that the FBI’s investigation into LTG Flynn should be closed.<sup>6</sup> According to internal FBI text messages, however, disgraced FBI special agent Peter Strzok intervened on the same day to prevent the FBI from closing LTG Flynn’s case, noting that the FBI’s senior leadership on the “seventh floor” was “involved.”<sup>7</sup>

The FBI’s mission is to do justice dispassionately. But these documents suggest that the FBI ignored protocol to confront LTG Flynn about a potential violation of an obscure and rarely-charged offense, with the real goal of forcing LTG Flynn’s resignation or prosecution. The FBI pursued LTG Flynn despite knowing that he was not a Russian agent and even after the FBI became aware that a central piece of evidence of alleged Russia collusion—the so-called Steele dossier—was based on Russian disinformation. Placing these events in context reveals the extent to which the FBI facilitated an incorrect public impression of alleged Trump campaign collusion with Russia.

- On December 30, 2016, as a senior national security official for the incoming Trump Administration, LTG Flynn spoke by phone with Russian Foreign Minister Sergey Kislyak.<sup>8</sup> This conversation was monitored by the Obama-Biden-era intelligence agencies.<sup>9</sup> Federal law protects the privacy of U.S. citizens in such conversations, but the Obama-Biden Administration allowed the details of this call to be used as a political weapon against the incoming Trump Administration and LTG Flynn.<sup>10</sup>
- On January 4, 2017, the FBI’s Washington Field Office recommended closing its investigation into LTG Flynn’s interactions with the Russia government.<sup>11</sup> Strzok intervened to prevent its closure, noting to a colleague that senior FBI leaders were “involved.”<sup>12</sup>
- On January 5, 2017, President Obama, Vice President Biden, then-FBI Director James Comey, then-National Security Advisor Rice, and then-Deputy Attorney

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<sup>6</sup> Supplemental Brief in Support of Motion to Dismiss, Document 189-1, United States v. Flynn, No. 17-000232 (D.D.C. Apr. 30, 2020).

<sup>7</sup> Text Messages, Document 189-1, United States v. Flynn, No. 17-000232 (D.D.C. Apr. 30, 2020).

<sup>8</sup> Statement of Offence, United States v. Flynn, No. 17-cr-232 (D.D.C. Dec. 1, 2017).

<sup>9</sup> Ellen Nakashima & Greg Miller, *FBI reviewed Flynn’s calls with Russian ambassador but found nothing illicit*, WASH. POST (Jan. 23, 2017).

<sup>10</sup> Andrew McCarthy, *Criminalizing Politics: The Investigation of General Flynn*, NAT’L REV. (Apr. 27, 2020); Mike Debonis, *FBI needs to explain why Flynn was recorded*, *Intelligence Committee chairman says*, WASH. POST (Feb. 14, 2017); Jason Beale, *How Obama Holdover Sally Yates Helped Sink Michael Flynn*, THE FEDERALIST (Apr. 8, 2019).

<sup>11</sup> Supplemental Brief in Support of Motion to Dismiss, Document 189-1, United States v. Flynn, No. 17-000232 (D.D.C. Apr. 30, 2020).

<sup>12</sup> Text Messages, Document 189-1, United States v. Flynn, No. 17-000232 (D.D.C. Apr. 30, 2020). (Documents shows that on January 4, 2017 at 2:22PM Strzok sent a series of text messages including one that stated, “7th floor involved” referencing FBI case Crossfire Razor—the code name for the FBI’s case against LTG Flynn—and another text that stated, “Hey don’t close RAZOR.”)

General Sally Yates met in the Oval Office to discuss Russian interference in the 2016 election.<sup>13</sup> On January 20—the last day of the Obama Administration—Ambassador Rice sent an email to herself to memorialize this meeting, writing that President Obama insisted that his team be “mindful” whether there would be “any reason that [it] cannot share information fully as it relates to Russia” with the incoming Trump team.<sup>14</sup>

- On January 6, 2017, then-Director Comey briefed President-elect Trump at Trump Tower about the contents of the so-called Steele dossier, the collection of political gossip and Russian disinformation, about President Trump’s ties to Russia.<sup>15</sup> Comey memorialized the briefing in a memorandum to himself.<sup>16</sup> Internal FBI emails reveal that the FBI knew this briefing would trigger the media to report about the contents of the Steele dossier.<sup>17</sup>
- On January 10, 2017, citing anonymous “U.S. officials,” CNN reported that President-elect Trump had received a brief from U.S. intelligence agencies about the contents of the Steele dossier.<sup>18</sup> That same day, *Buzzfeed News* published the contents of the dossier.<sup>19</sup>
- On January 12, 2017, the *Washington Post* published details of LTG Flynn’s conversation with Kislyak, sourced to an unidentified “senior U.S. government official.”<sup>20</sup> The *Post* questioned whether LTG Flynn had violated the obscure and rarely-invoked Logan Act, which prohibits private citizens from conducting unauthorized negotiations with a foreign government.<sup>21</sup> Any criminal investigation grounded in Logan Act questions is an obvious political pretext to attack the Trump Administration. FBI attorney Lisa Page admitted to Congress the Justice Department saw the Logan Act as an “untested” and “very, very old” statute.<sup>22</sup>

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<sup>13</sup> Letter from Sens. Chuck Grassley & Lindsey Graham, S. Comm. On the Judiciary, to Ambassador Susan Rice (Feb. 8, 2018).

<sup>14</sup> *Id.*

<sup>15</sup> Dep’t of Justice Off. Of Inspector Gen., A Report of Former Federal Bureau of Investigation Director James Comey’s Disclosure of Sensitive Investigative Information and Handling of Certain Memoranda, 10-11 (Aug. 2019).

<sup>16</sup> *Id.*; See Mollie Hemmingway, *Comey’s Memos Indicate Dossier Briefing of Trump Was A Setup*, *The Federalist* (Apr. 20, 2018).

<sup>17</sup> Letter from Sen. Ron Johnson, Chairman, S. Comm. On Homeland Sec. & Gov’t Affairs, to Christopher Wray, Dir., Fed. Bureau of Inv. (May 21, 2018).

<sup>18</sup> Evan Perez et al., *Intel chiefs presented Trump with claims of Russia effort to compromise him*, CNN (Jan. 10, 2017).

<sup>19</sup> Ken Bensinger, *These reports allege Trump has deep ties to Russia*, *Buzzfeed News* (Jan. 10, 2017).

<sup>20</sup> Andrew McCarthy, *Criminalizing Politics: The Investigation of General Flynn*, *NAT’L REV.* (Apr. 27, 2020).

<sup>21</sup> David Ignatius, *Why did Obama dawdle on Russia’s hacking?*, *WASH. POST.* (Jan. 12, 2017); 18 U.S.C. § 953 (1799).

<sup>22</sup> Lisa Page Transcribed Interview 82-83, July 16, 2018 (“There were discussions about the Logan Act with the Department and similar concerns, not about the constitutionality of the statute, but about the age and the lack of use

- On January 12, 2017, according to newly declassified information, the FBI learned of an inaccuracy in a subset of the Steele dossier, attributed to Russian disinformation efforts.<sup>23</sup> On February 27, 2017, the FBI learned that other assertions in the Steele dossier were inaccurate and likely the result of Russian disinformation.<sup>24</sup>
- On January 24, 2017, despite having the transcript of LTG Flynn’s December 2016 conversation with Kislyak, two FBI agents—Strzok and Joe Pientka—interviewed LTG Flynn at the White House about the conversation.<sup>25</sup> In a 2018 public appearance, former Director Comey bragged about how he directed Strzok and Pientka to interview LTG Flynn outside of standard protocols; Comey later admitted to Congress that he circumvented the proper process for interviewing a White House employee.<sup>26</sup> Likewise, then-Deputy Director Andrew McCabe explained that he personally dissuaded LTG Flynn from involving any lawyers in the interview.<sup>27</sup> Handwritten notes show that the FBI sought to confront LTG Flynn about potentially violating the Logan Act—a criminal law under which federal prosecutors have brought charges just once in the past two centuries and for which no one has even been convicted.<sup>28</sup> According to handwritten notes, the FBI’s goal was either getting LTG Flynn to admit to violating the Logan Act or to lie about the conversation so that he could be prosecuted or fired.<sup>29</sup>

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of the Logan Act. I did participate in conversations with the Department about it being an untested statute and a very, very old one, and so there being substantial litigation risk, not unlike, although this comparison was never made, but not unlike the gross negligence statute [of 18 U.S.C. 793(f)]. This would – this would be a – a risk, a strategic and litigation risk, to charge a statute that had not sort of been well-tested.”)

<sup>23</sup> Press Release, Sen. Chuck Grassley, *IG Footnotes: Serious Problems with Dossier Sources Didn’t Stop FBI’s Page Surveillance* (Apr. 15, 2020); Letter from Richard Grenell, Acting Director, Office of the Director of National Intelligence, to Sen. Charles Grassley, Chairman, S. Comm. On Finance, & Sen. Ron Johnson, Chairman, S. Comm. On Homeland Sec. & Gov’t Affairs (Apr. 15, 2020).

<sup>24</sup> *Id.*

<sup>25</sup> Government’s Reply to Def.’s Memorandum in Aid of Sentencing, Document 56-1-2, *United States v. Flynn*, No. 17-000232 (D.D.C. Dec. 14, 2018).

<sup>26</sup> See 92<sup>nd</sup> Street Y, James Comey in Conversation with Nicolle Wallace (2018),

<https://www.youtube.com/watch?v=9xqgu66d6vu>; James Comey Transcribed Interview 49, Dec. 17, 2018 (Mr. Gowdy. You said the protocol was to go through White House Counsel, correct? Mr. Comey. That was what I understood, yes . . . . My understanding was, to do an interview at the White House complex, we would arrange – the FBI would arrange those interviews through the White House Counsel’s Office. I never participated in one, don’t know of one, but I have a recollection that’s what the protocol was . . . .).

<sup>27</sup> Government’s Reply to Def.’s Memorandum in Aid of Sentencing, Document 56-1, *United States v. Flynn*, No. 17-000232 (D.D.C. Dec. 14, 2018). (mccabe wrote: “I explained to LTG Flynn that my desire was to have two of my agents interview him as quickly, quietly and discreetly as possible . . . . I further stated if [Flynn] wished to include anyone else in the meeting, like the White House Counsel for instance, that I would need to involve the Department of Justice. He stated that this would not be necessary and agreed to meet with the agents without any additional participants.”)

<sup>28</sup> Michelle Nichols, *Flynn, Kushner targeted several states in failed U.N. lobbying: diplomats*, REUTERS (Dec. 1, 2017).

<sup>29</sup> Handwritten Notes, Document 188, *United States v. Flynn*, No. 17-000232 (D.D.C. Apr. 29, 2020).

- On February 10, 2017, Strzok and Page provided “edits” to the memorandum memorializing LTG’s interview—known as a FD-302—weeks after the interview.<sup>30</sup> In a text message, Strzok described how he had to “completely re-write the thing so as to save [redacted] voice . . . in anticipation of needing it soon.”<sup>31</sup>
- On February 14, 2017, Strzok messaged Page, “Also, is Andy [McCabe] good with F 302,” to which Page responded, “Launch on f 302.”<sup>32</sup>
- On December 1, 2017, LTG Flynn pled guilty to making false statements and omissions during his January 24, 2017, interview.<sup>33</sup> It later emerged that Special Counsel Office prosecutors had derived their plea agreement in part by threatening to charge LTG Flynn’s son. In fact an informal “lawyer’s agreement” existed not to charge him if LTG Flynn pled guilty.<sup>34</sup>

We write to request that you immediately review the actions of the FBI in targeting LTG Flynn. The American people continue to learn troubling details about the politicization and misconduct at the highest levels of the FBI during the Obama-Biden Administration. Even more concerning, we continue to learn these new details from litigation and investigations—not from you. It is well past time that you show the leadership necessary to bring the FBI past the abuses of the Obama-Biden era.

Please facilitate making former FBI Assistant Director of the Counterintelligence Division Bill Priestap and FBI Agent Joe Pientka available for transcribed interviews about their actions related to LTG Flynn. Please ask your staff to contact the Committee as soon as possible to schedule these interviews. In addition, please provide the following documents and information:

1. Produce all documents and communications referring or relating to Crossfire Razor, the FBI code name for its investigation into LTG Flynn.
2. Produce all documents and communications between or among the FBI and other executive branch agencies, including but not limited to the Executive Office of the President, for the period December 1, 2016 to January 20, 2017, referring or relating to LTG Michael Flynn’s December 30, 2016, conversation with Sergey Kislyak.

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<sup>30</sup> Text Messages, Document 189-1, United States v. Flynn, No. 17-000232 (D.D.C. Apr. 30, 2020).

<sup>31</sup> *Id.*

<sup>32</sup> Flynn Reply in Support of Mr. Flynn’s Motion to Compel Production of Brady Material and to Hold the Prosecutors in Contempt, Document 133, United States v. Flynn, No. 17-000232 (D.D.C. Nov. 1, 2019); see Margot Cleveland, *The Federal Judge Overseeing Flynn’s Sentencing Just Dropped A Major Bombshell*, THE FEDERALIST (Dec. 13, 2018).

<sup>33</sup> Statement of Offense, United States v. Flynn, No. 17-cr-232 (D.D.C. Dec. 1, 2017).

<sup>34</sup> Supplement to Mr. Flynn’s Motion to Dismiss for Egregious Government Misconduct, Document 181-1, United States v. Flynn, No. 17-000232 (D.D.C. Apr. 24, 2020).

3. Explain when you personally first learned of the FBI's misconduct with respect to LTG Flynn.
4. Explain why the Committee and the American public are learning of the FBI's misconduct with respect to LTG Flynn from court filings rather than from you.
5. Explain whether you or any other member of the FBI's senior leadership prevented or delayed the disclosure of additional exculpatory information to LTG Flynn and his legal team.
6. Certify that the FBI has produced all responsive documents as part of the review ordered by Attorney General Barr into LTG Flynn's case.

Provide this information as soon as possible but no later than May 18, 2020. Thank you for your attention to this important matter, and we trust you will respond expeditiously and completely.

Sincerely,



Jim Jordan  
Ranking Member



Mike Johnson  
Ranking Member  
Subcommittee on the Constitution,  
Civil Rights, and Civil Liberties

cc: The Honorable Jerrold Nadler, Chairman

The Honorable Steve Cohen, Chairman, Subcommittee on the Constitution, Civil Rights,  
and Civil Liberties