

U.S. House of Representatives

Committee on the Judiciary

Washington, DC 20515-6216

One Hundred Sixteenth Congress

May 30, 2019

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW

Dear Attorney General Barr:

I write regarding yesterday's Investigative Summary issued by the Department's Office of the Inspector General (OIG) titled *Findings of Misconduct by an FBI Deputy Assistant Director for Unauthorized Contacts with the Media, Disclosing Law Enforcement and Other Sensitive Information to the Media, and Accepting a Gift from the Media* (Summary). The Summary notes an FBI Deputy Assistant Director (DAD) "disclosed to the media the existence of information that had been filed under seal in federal court, in violation of 18 USC § 401, Contempt of Court."¹ The Summary noted, however, "[p]rosecution of the DAD was declined."²

As you are aware, the dissemination of material filed under seal with a federal court is a serious offense especially when the person engaging in the unauthorized dissemination is a law enforcement official. It undermines a fundamental underpinning of our justice system and can put lives in jeopardy. Leaking classified material is also a dangerous, illegal action. The Department's declination to prosecute leaks only serves to embolden leakers to continue their reckless actions over time.

There are at Least Three Potential Investigations of former senior FBI Officials Regarding Unauthorized Leaks

Your predecessor, Jeff Sessions, recognized the damage such leaks could do and vowed to combat them. On November 14, 2017 he testified to Congress, "Members of the committee, we had about nine open investigations of classified leaks in the last three years. We have 27 investigations open today. We intend to get to the bottom of these leaks."³ Under Sessions' tenure, the Department took aggressive action towards investigating leakers. In addition to the disclosures noted in the Summary, the U.S. Attorney's Office for the District of Connecticut began conducting a criminal investigation into former FBI General Counsel James Baker for

¹ INSPECTOR GEN., DEP'T OF JUSTICE, *Findings of Misconduct by an FBI Deputy Assistant Director for Unauthorized Contacts with the Media, Disclosing Law Enforcement and Other Sensitive Information to the Media, and Accepting a Gift from the Media* (2019).

² *Id.*

³ Brian Stelter, *Jeff Sessions: We're investigating 27 leaks of classified information*, CNN, Nov. 14, 2017, available at: <https://money.cnn.com/2017/11/14/media/leak-investigations-jeff-sessions/index.html>

leaking information to reporters.⁴ Notably, a grand jury returned a three-count indictment against a former staffer for the Senate Select Committee on Intelligence regarding his role in an investigation into the leaking of classified information.⁵

Last April it was reported the Inspector General referred former FBI Deputy Director Andrew McCabe to the U.S. Attorney for the District of Columbia due to McCabe's lack of candor.⁶ As the OIG reported, McCabe disclosed confidential investigative details to a media outlet "to advance his personal interests at the expense of Department leadership."⁷ McCabe subsequently lied under oath to the FBI's Inspections Division and the DOJ OIG.⁸

Separately, last June the Inspector General testified before the Senate Judiciary Committee his office was investigating former FBI Director James Comey's leaking of memos he wrote regarding his conversations with the President.⁹

Over the past year, however, little information has been shared publicly—or with Congress—regarding the status of these leak investigations. Therefore, please provide answers the following questions on or before June 7, 2019:

- 1) Did the OIG refer the DAD discussed in yesterday's Summary to the Department for prosecution? Did the Department decline prosecution? Why?
- 2) Is the investigation into James Baker still ongoing?
- 3) Did the OIG criminal referral regarding Andrew McCabe develop into an investigation? If yes, is it ongoing and what is the status?
- 4) How many active cases does the Department have regarding classified leaks?
- 5) Has the Department recently conducted a criminal investigation into James Comey regarding possible leaking of classified information? If so, how did that investigation originate, and what is the status of that investigation?

⁴ See Transcribed Interview of James Baker at 38-39, Day 1, Oct. 3, 2018. (Mr. Levin: I'm sorry, I'm going to cut – not let him answer these questions right now. You may or may not know, [Baker]'s been the subject of a leak investigation which is still – a criminal leak investigation that's still active at the Justice Department.")

⁵ Josh Gerstein, *Ex-Senate Intelligence staffer indicted on charges of lying in leak probe*, POLITICO, June 8, 2018, available at: <https://www.politico.com/story/2018/06/08/senate-intelligence-staffer-indicted-leak-probe-doj-633699>.

⁶ Karoun Demirjian and Matt Zapotosky, *Inspector general referred findings on McCabe to U.S. attorney for consideration of criminal charges*, WASH. POST, April 19, 2018, available at: https://www.washingtonpost.com/world/national-security/inspector-general-referred-findings-on-mccabe-to-us-attorney-for-consideration-of-criminal-charges/2018/04/19/a200cabc-43f3-11e8-8569-26fda6b404c7_story.html?utm_term=.7593a7b1c435

⁷ INSPECTOR GEN., DEP'T OF JUSTICE, *A Report of Investigation of Certain Allegations Relating to Former FBI Deputy Director Andrew McCabe*, 2, 34 (2018).

⁸ *Id.* at 9.

⁹ *Examining the Inspector General's First Report on Justice Department and FBI Actions in Advance of the 2016 Presidential Election: Hearing Before the S. Comm. on the Judiciary*, 115th Cong. (2018) (testimony of Hon. Michael Horowitz, Inspector Gen., U.S. Dep't of Justice).

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Thank you in advance for your answers to these questions. In lieu of a written reply, my staff is available for an in-person briefing on this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doug Collins", is written over the printed name.

Doug Collins
Ranking Member

cc: The Honorable Jerrold Nadler, Chairman