

United States Senate

December 10, 2020

The Honorable William P. Barr
Attorney General of the United States
Department of Justice
Washington, D.C.

The Honorable Christopher Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, D.C. 20535

Dear General Barr and Director Wray,

Days before the presidential election in 2016, a *Wall Street Journal* article quoted an anonymous source confirming the existence of a probe into Hillary Clinton's use of a private email server while serving as Secretary of State—an investigation that, up to that point, Mr. Comey and the FBI declined to confirm.

We now know that this leak was authorized by then-Deputy Director of the FBI, Andrew McCabe. Mr. McCabe initially told FBI agents under oath that he did not authorize the leak and did not know who did. But when confronted later with contrary evidence, he confessed both to knowing about and authorizing the leak.¹

We do not know, however, whether and to what extent then-FBI Director Comey was aware of and authorized this leak after the fact.

Mr. McCabe has repeatedly stated that Mr. Comey knew of and effectively authorized the leak by approving it. He told the Office of the Inspector General (OIG) that “he and Comey discussed the October 30 WSJ article in person on October 31, 2016” and that at that meeting “he told Comey that he had ‘authorized AD/OPA and Special Counsel to disclose the account of the August 12th call’ and did not say anything to suggest in any way that it was unauthorized.” According to Mr. McCabe, Mr. Comey “did not react negatively, just kind of accepted it,” and “thought it was a ‘good’ idea that they presented this information” to the media.²

He again reiterated Mr. Comey's involvement at a hearing last month at the Senate Judiciary Committee. I asked Mr. McCabe: “According to the *Washington Times*, April 18, 2018,³ Mr.

¹ OFF. OF THE INSPECTOR GEN., U.S. DEP'T OF JUSTICE, A REPORT OF INVESTIGATION OF CERTAIN ALLEGATIONS RELATING TO FORMER FBI DEPUTY DIRECTOR ANDREW MCCABE 2 (2019).

² A REPORT OF INVESTIGATION OF CERTAIN ALLEGATIONS RELATING TO FORMER FBI DEPUTY DIRECTOR ANDREW MCCABE 12.

³ Jeff Murdock, *Andrew McCabe's Lawyer Blasts James Comey, FBI Watchdogs*, *The Washington Times*, (Apr. 18, 2018), <https://m.washingtontimes.com/news/2018/apr/18/comey-knew-wall-street-journal-leak-mccabe-lawyer/>.

McCabe insisted he told his boss that he had authorized disclosure about the Clinton investigation, but Mr. Comey has denied this claim, and Mr. McCabe told investigators that Mr. Comey knew he had authorized disclosure and agreed it was a good idea—is that accurate? Is that your testimony to this Committee?” Mr. McCabe replied: “That is my recollection.”⁴

Mr. Comey, however, has sworn under oath that he neither authorized the leak nor knew of Mr. McCabe’s involvement. At a May 2017 hearing before the Senate Judiciary Committee, Senator Grassley asked Mr. Comey: “Have you ever been an anonymous source in news reports about matters relating to the Trump investigation or the Clinton investigation?” Mr. Comey replied: “Never.” Senator Grassley then asked: “Have you ever authorized someone else at the FBI to be an anonymous source in news reports about the Trump investigation or the Clinton investigation?” He replied: “No.”⁵ And this October, at a Senate Judiciary Committee hearing, Mr. Comey testified in response to my questioning: “I stand by the testimony that you summarized that I gave in May of 2017.”⁶

Mr. Comey’s denial in front of the Senate is consistent with his statement to the OIG. He told the OIG that “he recalled seeing this article but did not know how the disclosure about the PADAG call in the October 30 article happened. He said that he was ‘very concerned’ about that part of the article.” “Comey told [OIG] he considered the disclosure about the PDAG call ‘problematic’ because it related to ‘sensitive FBI information.’” The OIG report continues, “According to Comey, he discussed the issue with McCabe after the article was published, and at that time McCabe ‘definitely did not tell me that he authorized’ the disclosure of the PADAG call. Comey said that McCabe gave him the exact opposite impression.” Mr. Comey asserted that that he “took from whatever communication [they] had that [Mr. McCabe] wasn’t involved in [the leak].”⁷

Mr. Comey and Mr. McCabe’s statements are irreconcilably contradictory. Mr. McCabe says that he told Mr. Comey of the leak and that Mr. Comey approved—effectively authorizing the leak after the fact. Mr. Comey, on the other hand, has said that he neither authorized the leak nor knew of Mr. McCabe’s involvement.

One of them is lying under oath—a federal crime. 18 U.S.C. § 1621. The American people deserve to know who.

So that the American people may know the truth, please provide to the fullest extent possible any and all emails, records, communications, and any other documents relevant to determining whether Mr. Comey knew of and approved of the FBI’s leak of information pertaining to the Clinton investigation to the *Wall Street Journal*.

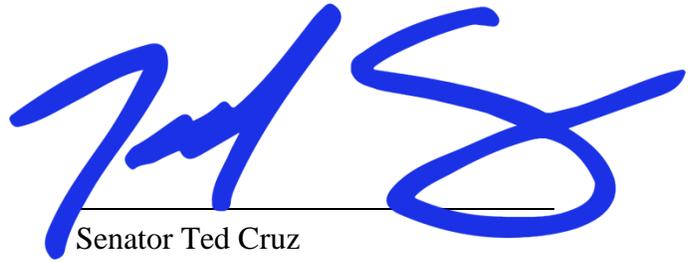
⁴ *Hearing on Oversight of the Crossfire Hurricane Investigation: Day 4, Before the S. Comm. on the Judiciary*, 116th Cong. (Nov. 10, 2020).

⁵ *Hearing on Oversight of the Federal Bureau of Investigation, Before the S. Comm. on the Judiciary*, 115th Cong. (May 3, 2017) (emphasis added).

⁶ *Hearing on Oversight of the Crossfire Hurricane Investigation: Day 3, Before the S. Comm. on the Judiciary*, 116th Cong. (Sept. 30, 2020).

⁷ A REPORT OF INVESTIGATION OF CERTAIN ALLEGATIONS RELATING TO FORMER FBI DEPUTY DIRECTOR ANDREW MCCABE 13.

Sincerely,



Senator Ted Cruz
Chairman, Constitution Subcommittee
Senate Judiciary Committee