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(UNCLASSIFIED when separated from attachments)

United States Senate
WASHINGTON, DC 20510

April 16, 2019

VIA ELECTRONIC TRANSMISSION

The Honorable William Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, D.C. 20530

Dear Attorney General Barr:

On October 17, 2018, the Judiciary Committee sent a classified letter to the Justice Department regarding the Inspector General's classified appendix to its report titled, "A Review of Various Actions by the Federal Bureau of Investigation and Department of Justice in Advance of the 2016 Election." As noted on page 154 of Chapter 5 of the Inspector General's unclassified report, the classified appendix raises significant issues associated with the FBI's failure to review certain highly classified information in support of its Midyear investigation.¹ In particular, the Inspector General noted that it learned that the FBI acquired classified material that "may have included information potentially relevant to the Midyear investigation." The FBI even drafted a memorandum in May of 2016 stating that access to the information was "necessary to complete the investigation." However, that memorandum was never completed. During the Inspector General's investigation, when FBI witnesses were interviewed by the Inspector General, they took the position that the information would not materially impact the conclusion. That explanation is inconsistent with the memorandum's self-identified purpose and demands clarification.

Furthermore, on July 31, 2018, the Judiciary Committee requested a briefing on the steps the Department has taken, or plans to take, in light of the report's findings. In a subsequent phone call with Department personnel on September 17, 2018, the Department declined to brief the Judiciary Committee, asserting without any clear basis, that it would interfere with Special Counsel Mueller's equities. Now that the Special Counsel's investigation has concluded, we are unaware of any legitimate basis upon which the Department can refuse to answer the Judiciary Committee's inquiries.

¹ Unclassified Inspector General Report, p. 154. "In addition, as we describe in the classified appendix to this report, the OIG learned near the end of our review that the FBI had considered obtaining permission from the Department to review certain classified materials that may have included information potentially relevant to the Midyear investigation. Although the Midyear team drafted a memorandum to the Deputy Attorney General in late May 2016 stating that review of the highly classified materials was necessary to complete the investigation and requesting permission to access them, the FBI never sent this request to the Department. FBI witnesses told us that they did not seek access to these classified materials for various reasons, including that they believed this information would not materially impact the conclusion. The classified appendix describes in more detail the highly classified information, its potential relevance to the Midyear investigation, the FBI's reasons for not seeking access to it, and our analysis."

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Accordingly, we are reissuing the attached classified letter regarding the important questions raised by the appendix and reiterating our request for a classified briefing on the subject. Please respond to these questions no later than April 26, 2019. Should you have questions, please have your staff contact Zachary Somers of Chairman Graham's staff at 202-224-5225, Joshua Flynn-Brown of Chairman Grassley's staff at 202-224-4515, or Joseph Folio of Chairman Johnson's staff at 202-224-4751.²

Thank you for your prompt attention to this matter.

Sincerely,



Lindsey O. Graham
Chairman
Committee on the Judiciary



Charles E. Grassley
Chairman
Committee on Finance



Ron Johnson
Chairman
Committee on Homeland Security and Governmental Affairs

cc: The Honorable Dianne Feinstein
The Honorable Ron Wyden
The Honorable Gary C. Peters

² Chairman Johnson joins these requests as a continuation of the Homeland Security and Governmental Affairs Committee's oversight of these issues. See S. Rule XXV(k); S. Res. 445, 108th Cong. (2004); S. Res. 70, 116th Cong. § 12(e)(1)(A) (2019).

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