

# C A M P A I G N F O R ACCOUNTABILITY

October 31, 2016

Candace M. Will  
Assistant Director  
Office of Professional Responsibility  
Federal Bureau of Investigations  
935 Pennsylvania Avenue, N.W.  
Washington, D.C. 20535-0001

Dear Ms. Will:

Campaign for Accountability (CfA) respectfully requests that you investigate FBI Director James B. Comey to determine if his willful violations of longstanding Department of Justice policies were motivated by partisan, political purposes. CfA also requests that you open a leak investigation based on the extraordinary details that have been disclosed over the past few days concerning pending, and previously unknown, FBI investigations.

## *Background*

Last Friday FBI Director Comey took the extraordinary step of informing Congress, in a letter to the chairs of the Select Committee on Intelligence, the Committee on the Judiciary, the Committee on Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies, the Committee on Homeland Security and Governmental Affairs, the Permanent Select Committee on Intelligence, and the Committee on Oversight and Government Reform, that the FBI will be taking “investigative steps designed to allow investigators to review” apparently newly discovered emails that “appear to be pertinent” to the FBI’s investigation of former Secretary Clinton’s personal email server. According to news reports, Director Comey sent the letter despite being warned by senior Department of Justice officials that doing so would violate the Department’s longstanding policy of refraining from such actions so close to a general election.

Although Director Comey’s letter was devoid of details, multiple news reports over the weekend have provided additional information. Reportedly the emails in question were discovered on the laptop Clinton aide Huma Abedin shared with her estranged husband Anthony Weiner, and were discovered as part of the FBI’s investigation of Mr. Weiner. According to “people familiar with the matter” these emails number 650,000 and “underlying metadata suggests thousands of those messages could

have been sent to or from the private server that Mrs. Clinton used while she was secretary of state[.]”<sup>1</sup>

Not only have details about these emails leaked out in a steady drip, but just as disturbing there have been daily, if not hourly, leaks about other probes the FBI has undertaken that may have some connection to Secretary Clinton. The *Wall Street Journal* has reported on a sharp disagreement between FBI officials in New York and “senior law-enforcement officials” at the FBI concerning the strength of the evidence the FBI has collected on the Clinton Foundation, which it purportedly is investigating for “financial crimes or influence-peddling, according to people familiar with the matter.”<sup>2</sup> *Id.* The FBI’s Washington field office reportedly is also investigating “a separate matter” involving Virginia Governor Terry McAuliffe. *Id.* The FBI field offices have pressed these matters despite the view of “Justice Department anticorruption prosecutors . . . that both probes were weak[.]” *Id.*

#### *Apparent Violations of DOJ Policies*

These unprecedented leaks about ongoing FBI investigations at an extraordinarily sensitive time – days before a presidential election – contravene longstanding Department policies. A 2012 memo from former Attorney General Eric Holder highlights the need to be “particularly sensitive to safeguarding the Department’s reputation for fairness, neutrality, and nonpartisanship.”<sup>3</sup> Toward that end, the DOJ directive makes clear “politics must play no role in the decisions of federal investigators or prosecutors regarding any investigations or criminal charges.” *Id.* Timing an investigation “for the purpose of affecting any election, or for the purpose of giving an advantage or disadvantage to any candidate or political party . . . is inconsistent with the Department’s mission and with the Principles of Federal Prosecution.” *Id.* Further, the latest revelations prove Director Comey willfully ignored this longstanding guidance; despite the reminder from senior Department officials of these policies, which would counsel against sending the letter, he proceeded anyway.

As executive director of Campaign for Accountability and previously as chief counsel for Citizens for Responsibility and Ethics in Washington I have made many requests for records and information pertaining to FBI investigations. The FBI consistently has refused to even publicly confirm the existence of an ongoing or closed

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<sup>1</sup> Devlin Barrett, [FBI in Internal Feud Over Hillary Clinton Probe](http://www.wsj.com/articles/laptop-may-include-thousands-of-emails-linked-to-hillary-clintons-private-server-1477854957), *Wall Street Journal*, Oct. 30, 2016, available at <http://www.wsj.com/articles/laptop-may-include-thousands-of-emails-linked-to-hillary-clintons-private-server-1477854957>.

<sup>2</sup> *Id.* See also Matt Zapotosky, Rosalind S. Helderman, and Tom Hamburger, [FBI Agents Pressed Justice Unsuccessfully for Probe of Clinton Foundation](https://www.washingtonpost.com/world/national-security/fbi-agents-pressed-justice-unsuccessfully-for-probe-of-clinton-foundation-2016/10/30/98c823ec-9ee9-11e6-8d63-3e0a660f1f04_story.html?hpid=hp_rhp-top-table-main_clintonfoundation-1048pm%3Ahomepage%2Fstory), *Washington Post*, Oct. 30, 2016, available at [https://www.washingtonpost.com/world/national-security/fbi-agents-pressed-justice-unsuccessfully-for-probe-of-clinton-foundation-2016/10/30/98c823ec-9ee9-11e6-8d63-3e0a660f1f04\\_story.html?hpid=hp\\_rhp-top-table-main\\_clintonfoundation-1048pm%3Ahomepage%2Fstory](https://www.washingtonpost.com/world/national-security/fbi-agents-pressed-justice-unsuccessfully-for-probe-of-clinton-foundation-2016/10/30/98c823ec-9ee9-11e6-8d63-3e0a660f1f04_story.html?hpid=hp_rhp-top-table-main_clintonfoundation-1048pm%3Ahomepage%2Fstory).

<sup>3</sup> Memo from the Attorney General to All Department Employees re: Election Year Sensitivities, Mar. 9, 2012, available at <https://www.justice.gov/sites/default/files/oip/legacy/2014/07/23/ag-memo-election-year-sensitivities.pdf>.

investigation unless it resulted in a prosecution. The highly unusual public announcements by Director Comey regarding the FBI's investigation of Secretary Clinton contravene this longstanding tradition and Department guidance, and raise the specter that they are being done for an improper purpose.

Further, these unprecedented and unauthorized leaks, together with Director Comey's letter to Congress, violate longstanding Department policy not to comment on ongoing investigations. As former Attorney General Holder noted in an op ed published in the *Washington Post*, "except in exceptional circumstances, the department will not even acknowledge the existence of an investigation."<sup>4</sup> Following these policies is critical

to ensure that every investigation proceeds fairly and judiciously; to maintain the public trust in the department's ability to do its job free of political influence; and to prevent investigations from unfairly or unintentionally casting public suspicion on public officials who have done nothing wrong.

*Id.*

It is apparent from the contents of the multiple news reports that the sources of information must be within the FBI. Indeed, the *Washington Post* explained that sources were speaking "on the condition of anonymity out of fear of facing professional consequence for discussing the politically sensitive matter."<sup>5</sup>

### *Conclusion*

Taken as a whole, the timing of the actions announced on Friday by Director Comey and his decision to memorialize them in a publicly available and now widely disseminated letter, together with the growing leaks from within the FBI, appear to violate Department guidelines and cast a heavy shadow on the FBI's reputation for "fairness, neutrality, and nonpartisanship." During this very ugly campaign season it is imperative that the public have confidence in the integrity of the FBI and trust that it will not be guided by political considerations. Director Comey's public actions and the covert actions of FBI investigators have shaken that confidence. Accordingly we

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<sup>4</sup> Eric Holder, Op-Ed., *James Comey Is a Good Man, But He Made a Serious Mistake*, *Washington Post*, Oct. 30, 2016, available at [https://www.washingtonpost.com/opinions/eric-holder-james-comey-is-a-good-man-but-he-made-a-serious-mistake/2016/10/30/08e7208e-9f07-11e6-8832-23a007c77bb4\\_story.html?hpid=hp\\_no-name\\_opinion-card-e%3Ahomepage%2Fstory&utm\\_term=.328184e529d0](https://www.washingtonpost.com/opinions/eric-holder-james-comey-is-a-good-man-but-he-made-a-serious-mistake/2016/10/30/08e7208e-9f07-11e6-8832-23a007c77bb4_story.html?hpid=hp_no-name_opinion-card-e%3Ahomepage%2Fstory&utm_term=.328184e529d0).

<sup>5</sup> Zapotosky, Helderman, and Hamburger, *Washington Post*, Oct. 30, 2016.

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respectfully request that you investigate this matter further to determine the sources of the unauthorized leaks and whether Director Comey violated his professional obligations when he willfully chose to ignore Department policies.

Sincerely,



Anne L. Weismann  
Executive Director

cc: Attorney General Loretta E. Lynch  
Michael E. Horowitz, Inspector General