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KEITH J. ROTHFUS, Pennsylvania

JERROLD NADLER, New York  
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DAVID CICILLINE, Rhode Island  
ERIC SWALWELL, California  
TED LIEU, California  
JAMIE RASKIN, Maryland  
PRAMILA JAYAPAL, Washington  
BRAD SCHNEIDER, Illinois  
VAL DEMINGS, Florida

ONE HUNDRED FIFTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

<http://www.house.gov/judiciary>

June 21, 2018

The Honorable Bob Goodlatte  
Chairman  
House Committee on the Judiciary  
2138 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Goodlatte,

I am writing to inform you that the subpoena you issued to the Department of Justice on March 22, 2018 does not comply with Committee rules and is therefore not a valid subpoena under the Rules of the House.

On March 22, 2018, you issued a subpoena to the Department of Justice "seeking documents related to [the Majority's] ongoing investigation regarding charging decisions in the investigation surrounding former Secretary Clinton's private email server in 2016."<sup>1</sup> House Republicans have repeatedly accused Department officials of failing to comply with this subpoena—and even threatened some of those officials with contempt of Congress and impeachment proceedings.<sup>2</sup>

As you know, if you choose to issue a subpoena unilaterally—instead of putting the proposed subpoena to a vote of the Committee—our rules require you to "consult" with me in advance. Specifically:

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<sup>1</sup> Letter to the Hon. Rod J. Rosenstein, Deputy Attorney General, U.S. Dept. of Justice, from Chairman Bob Goodlatte, H. Comm. on the Judiciary, March 22, 2018.

<sup>2</sup> See, e.g., Greg Re, *GOP will hit FBI, DOJ with 'full arsenal of constitutional weapons' if they don't comply with subpoena*, *Gowdy warns*, FOX NEWS, June 17, 2018.



At least two business days before issuing any subpoena pursuant to subsection (a), the Chair shall consult with the Ranking Member regarding the authorization and issuance of such subpoena, and the Chair shall provide a full copy of the proposed subpoena, including any proposed document schedule, at that time.<sup>3</sup>

As we discussed on at least one other occasion, our “consultation” is not complete—and the subpoena may not issue—until you have transmitted a full copy of the subpoena to my office.

On March 19, 2018, we met to discuss a subpoena for documents related to the Department of Justice’s handling of the Clinton investigation. At that time, you provided me with a document that describes 15 different categories of information sought from the Department and the FBI. I have enclosed a copy of this document for your convenience.

The subpoena you issued on March 22 is substantively and materially different from the document you shared with me on March 19. The subpoena requests nine categories of information, not 15. It is also significantly different in scope than the document you shared with me at our meeting. Our Committee rules prevent the Majority from making substantive changes to a proposed subpoena without appropriate notice to the Minority. Because you did not provide me with a copy of the subpoena that actually issued, the subpoena that you eventually issued would be unenforceable as a matter of law.

Although you certainly have the option to issue another unilateral subpoena to cure this defect, I would urge you to consider a more bipartisan response. As you know, we recently changed our rules to give the Chairman the option of issuing a subpoena without first putting the proposal to a vote of the Committee. We agreed to this change based largely on your guarantee that you would only use the unilateral subpoena power “during periods of recess” or in “extraordinary circumstances.”<sup>4</sup> This Congress, you have proposed to issue a unilateral subpoena on three occasions. I have objected each time, on the grounds that the circumstances did not meet your own standard and that the full Committee should have an opportunity to debate the wisdom of using our time and resources in this manner. I am similarly concerned about your

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<sup>3</sup> Rule IV(c), *Rules of Procedure*, H. Comm. on the Judiciary, 115th Cong., adopted Jan. 24, 2017 (emphasis added).

<sup>4</sup> *Organizational Meeting – Adoption of Committee Rules* The gist: their subpoena to DOJ—the one for all of the Hillary documents, the one at the center of the text messages, the one that the Rs use as the basis for their attacks against the DAG—is unenforceable. They provided us with the attached March 19 document when the Chairman went to “consult” with JN. The subpoena that issued on March 22, also attached, is a different document. Because they did not provide us with an actual and complete copy of the subpoena two days in advance, they broke Committee Rules—and the subpoena is no good.

; *Ratification of Subcommittee Assignments; Markup of H.R. 181, H.R. 350, H.R. 159, and H.R. 285*, before the H. Comm. on the Judiciary, Jan. 21, 2015.



refusal to include Democrats in discussions of what documents the Committee should request and which individuals should be interviewed and when meeting with Department of Justice officials to negotiate how they will respond to Committee requests.<sup>5</sup>

On a broader level, I hope that this defective subpoena will give the Majority an opportunity to reassess its priorities. I believe that other work should take precedence over this largely unproductive investigation. Foreign adversaries continue to threaten our elections, the President has created an immigration crisis at our borders, gun violence plagues our schools and our homes, and the Trump Administration continues to disregard even the most basic ethics rules. Surely any one of these topics, each one squarely within the Committee's jurisdiction, is more important than the unending hunt for Hillary Clinton's email.

Sincerely,

A handwritten signature in blue ink, reading "Joseph R. Nadler", is written over a horizontal line. The signature is fluid and cursive.

CC: Attorney General Sessions  
Deputy Attorney General Rosenstein  
Chairman Gowdy  
Ranking Member Cummings

Enclosures

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<sup>5</sup> See, e.g., Kyle Cheney and Aubree Eliza Weaver, *DOJ, House GOP lurch toward confrontation in document fight*, POLITICO, July 17, 2018.



**SUBPOENA**

**BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE  
CONGRESS OF THE UNITED STATES OF AMERICA**

To The Honorable Rod J. Rosenstein, Deputy Attorney General

You are hereby commanded to be and appear before the  
Committee on the Judiciary

of the House of Representatives of the United States at the place, date, and time specified below.

- to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 2138 Rayburn House Office Building

Date: April 4, 2018

Time: 12:00 noon

- to testify at a deposition touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

- to testify at a hearing touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

To Any authorized staff member

\_\_\_\_\_ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at

the city of Washington, D.C. this \_\_\_\_\_ day of March, 2018.

Attest:

\_\_\_\_\_  
*Chairman or Authorized Member*

\_\_\_\_\_  
*Clerk*





## SCHEDULE

In accordance with the attached instructions for responding to Judiciary Committee document requests, you are required to produce the following documents in unredacted form:

1. All documents and communications referring or relating to the investigation into former Secretary Clinton to or from the FBI's Office of the Director and the FBI's Office of the Deputy Director between January 1, 2016, and November 8, 2016;
2. All documents and communications referring or relating to the decision or recommendation not to charge former Secretary Clinton dated, created, or modified between January 1, 2016, and November 8, 2016, including copies of the documents posted or referenced on the FBI's Electronic FOIA Library on October 16, 2017, titled Drafts of Director Comey's July 5, 2016 Statement Regarding Email Server Investigation;
3. All documents and communications referring or relating to former Director Comey's decision to appropriate, from the Department of Justice, the decision whether to charge former Secretary Clinton;
4. All documents and communications referring or relating to former Director Comey's decision to make a public statement on July 5, 2016;
5. All documents and communications referring or relating to former Director Comey's decision to inform Congress regarding the status of the Clinton email server investigation on October 28, 2016, and November 6, 2016;
6. A list of all personnel who participated in deliberations concerning the decision whether to charge former Secretary Clinton;
7. All documents and communications the Department of Justice has provided to its Office of the Inspector General for the Inspector General's investigation into the FBI's decision-making in the FBI's investigation of former Secretary Clinton's private email server;<sup>1</sup>
8. The document of court cases used in considering various possible charges against former Secretary Clinton referenced by James Rybicki during his January 18, 2018 interview with the Committee;
9. All documents and communications relied upon by FBI's Office of Professional Responsibility in reaching its decision to recommend the dismissal of former FBI Deputy Director Andrew McCabe;

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<sup>1</sup> This request does not at this time include records of grand jury deliberations or proceedings covered by Rule 6(e) of the Federal Rules of Criminal Procedure. This exclusion, however, does not extend to documents merely presented to the grand jury, derived from documents presented to a grand jury, or any documents revealing when the court made the decision to empanel a grand jury.



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# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

<http://www.house.gov/judiciary>

March 22, 2018

The Honorable Rod J. Rosenstein  
Deputy Attorney General  
U.S. Department of Justice  
950 Pennsylvania Ave. NW  
Washington, D.C. 20530

Dear Mr. Rosenstein,

Four months have passed since Chairman Gowdy and I, along with Representatives Jordan, Meadows, Buck, and Ratcliffe, wrote you seeking documents related to our ongoing investigation regarding charging decisions in the investigation surrounding former Secretary Clinton's private email server in 2016. To date, the Department has only produced a fraction of the documents that have been requested. In addition, in early February, I wrote the Department and the Federal Bureau of Investigation seeking documents related to potential abuses of the Foreign Intelligence Surveillance Act. No documents have been provided to the Committee in response to this request.

Given the Department's ongoing delays in producing these documents, I am left with no choice but to issue the enclosed subpoena to compel production of these documents.

Moreover, since our requests for documents related to the Clinton email server investigation were made, it has come to light that the FBI's Office of Professional Responsibility recommended the dismissal of former FBI Deputy Director Andrew McCabe. This recommendation appears to be based, at least in part, on events related to the investigation surrounding former Secretary Clinton's private email server. Accordingly, the subpoena additionally covers all documents and communications relied upon by FBI's Office of Professional Responsibility in reaching its decision to recommend the dismissal of former Deputy Director McCabe.

Thank you for your prompt attention to this important matter. If any part of the production has been designated as classified pursuant to Executive Order 13526, please



**SUBPOENA**

**BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE  
CONGRESS OF THE UNITED STATES OF AMERICA**

To The Honorable Rod J. Rosenstein, Deputy Attorney General

You are hereby commanded to be and appear before the  
Committee on the Judiciary

of the House of Representatives of the United States at the place, date, and time specified below.

- to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: <u>2138 Rayburn House Office Building</u>	
Date: <u>April 5, 2018</u>	Time: <u>12:00 noon</u>

- to testify at a deposition touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____	
Date: _____	Time: _____

- to testify at a hearing touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____	
Date: _____	Time: _____

To Any authorized staff member

\_\_\_\_\_ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at  
the city of Washington, D.C. this 22 day of March, 2018.

Bob Goodlatte  
Chairman or Authorized Member

Attest:  
Karen P. Haas  
Clerk



## SCHEDULE

In accordance with the attached instructions for responding to Judiciary Committee document requests, you are required to produce the following documents in unredacted form:

1. All documents and communications provided to or obtained by the Department of Justice's Office of the Inspector General (OIG) regarding the FBI's decision-making with respect to the FBI's investigation of former Secretary Clinton's private email server;<sup>1</sup>
2. Documents sufficient to show the names, titles, and business addresses of all personnel who participated in deliberations concerning the decision whether to charge Clinton. In lieu of documents, you may provide a list of the requested information;
3. The document referenced by James Rybicki during his January 18, 2018 interview with the Committee referring or relating to court cases or judicial decisions used in considering, justifying, or communicating possible charges against, or decisions not to charge, Clinton;
4. All documents and communications relied upon by FBI's Office of Professional Responsibility in reaching its decision to recommend the dismissal of former FBI Deputy Director Andrew McCabe;
5. All documents and communications with the Foreign Intelligence Surveillance Court ("FISC") referring or relating to any Foreign Intelligence Surveillance Act ("FISA") applications associated with Carter Page or individuals on President Trump's 2016 presidential campaign or part of the Trump administration;
6. All documents and communications referring or relating to FISC hearings and deliberations, including any court transcripts, related to any FISA applications associated with Carter Page or the Trump campaign or Trump administration;
7. All documents and communications referring or relating to internal Department of Justice or FBI management requests to review, scrub, report on, or analyze any reporting of FISA collection involving, or coverage mentioning, the Trump campaign or Trump administration;
8. All documents and communications referring or relating to defensive briefings provided by the Department of Justice or FBI to the 2016 presidential campaigns of Clinton or President Trump; and,

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<sup>1</sup> This request does not, at this time, include records of grand jury deliberations or proceedings covered by Rule 6(e) of the Federal Rules of Criminal Procedure. This exclusion, however, does not extend to documents merely presented to the grand jury, derived from documents presented to a grand jury, or any documents revealing when the court made the decision to empanel a grand jury.





## RESPONDING TO JUDICIARY COMMITTEE DOCUMENT REQUESTS

*In responding to the document request, please apply the instructions and definitions set forth below:*

### INSTRUCTIONS

1. In complying with this request, you should produce all responsive documents in unredacted form that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you.
2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.
4. Each document should be produced in a form that may be copied by standard copying machines.
5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's request to which the document responds.
6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced.
7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.
8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.
9. The Committee requests electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), you should immediately consult with Committee majority staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.



explain the basis for not producing the document. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

- a) Any objections or claims of privilege are waived if you fail to provide an explanation of why full compliance is not possible and a log identifying with specificity the ground(s) for withholding each withheld document prior to the request compliance date.
- b) In complying with the request, be apprised that (unless otherwise determined by the Committee) the Committee does not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.
- c) Any assertion by a request recipient of any such non-constitutional legal bases for withholding documents or other materials shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committee (or the chair of the Committee, if authorized) has consented to recognize the assertion as valid.

18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

19. Upon completion of the document production, you must submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request, and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a log provided to the Committee, as described in (17) above, or identified as provided in (10), (11), or (12) above.

20. When representing a witness or entity before the Committee in response to a document request or request for transcribed interview, counsel for the witness or entity must promptly submit to the Committee a notice of appearance specifying the following: (a) counsel's name, firm or organization, and contact information; and (b) each client represented by the counsel in connection with the proceeding. Submission of a notice of appearance constitutes acknowledgement that counsel is authorized to accept service of process by the Committee on behalf of such client(s) and that counsel is bound by and agrees to comply with all applicable House and Committee rules and regulations.



attorneys, agents, advisors, consultants, staff, contractors, or any other persons acting on your behalf or under your control or direction; and includes any other person(s) defined in the document request letter.

8. The term "administration" means and refers to any department, agency, division, office, subdivision, entity, official, administrator, employee, attorney, agent, advisor, consultant, staff, or any other person acting on behalf or under the control or direction of the Executive Branch.



**SUBPOENA**

**BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE  
CONGRESS OF THE UNITED STATES OF AMERICA**

To The Honorable Rod J. Rosenstein, Deputy Attorney General

You are hereby commanded to be and appear before the  
Committee on the Judiciary

of the House of Representatives of the United States at the place, date, and time specified below.

- to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 2138 Rayburn House Office Building

Date: April 4, 2018

Time: 12:00 noon

- to testify at a deposition touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

- to testify at a hearing touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

To Any authorized staff member

\_\_\_\_\_ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at

the city of Washington, D.C. this \_\_\_\_\_ day of March, 2018.

Attest:

\_\_\_\_\_  
*Chairman or Authorized Member*

\_\_\_\_\_  
*Clerk*

**PROOF OF SERVICE**

---

Subpoena for

The Honorable Rod J. Rosenstein, Deputy Attorney General

Address United States Department of Justice, 950 Pennsylvania Ave. NW, Washington, D.C. 20530

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before the Committee on the Judiciary

---

*U.S. House of Representatives  
115th Congress*

---

Served by (print name) \_\_\_\_\_

Title \_\_\_\_\_

Manner of service \_\_\_\_\_

---

Date \_\_\_\_\_

Signature of Server \_\_\_\_\_

Address \_\_\_\_\_

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## SCHEDULE

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3. All documents and communications referring or relating to former Director Comey's decision to appropriate, from the Department of Justice, the decision whether to charge former Secretary Clinton;
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10. All FBI and Department of Justice documents and communications with the Foreign Intelligence Surveillance Court ("FISC") related to any Foreign Intelligence Surveillance Act ("FISA") applications associated with individuals on President Trump's 2016 presidential campaign or part of the Trump administration;
11. All documents of FISC hearings and deliberations, including any court transcripts, related to any FISA applications associated with the Trump campaign or Trump administration;
12. All documents and communications relating to internal Department of Justice or FBI management requests to review, scrub, report on, or analyze any reporting of FISA collection against, or coverage mentioning, the Trump campaign or Trump administration;
13. All documents and communications concerning defensive briefing provided by the Department of Justice or FBI to the 2016 presidential campaigns of former Secretary Clinton or President Trump; and,
14. All documents and communications concerning proposed, recommended, or actual FISA coverage on former Secretary Clinton, her associates, or associated organizations.

BOB GOODLATTE, Virginia  
CHAIRMAN

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March 22, 2018

The Honorable Rod J. Rosenstein  
Deputy Attorney General  
U.S. Department of Justice  
950 Pennsylvania Ave. NW  
Washington, D.C. 20530

Dear Mr. Rosenstein,

Four months have passed since Chairman Gowdy and I, along with Representatives Jordan, Meadows, Buck, and Ratcliffe, wrote you seeking documents related to our ongoing investigation regarding charging decisions in the investigation surrounding former Secretary Clinton's private email server in 2016. To date, the Department has only produced a fraction of the documents that have been requested. In addition, in early February, I wrote the Department and the Federal Bureau of Investigation seeking documents related to potential abuses of the Foreign Intelligence Surveillance Act. No documents have been provided to the Committee in response to this request.

Given the Department's ongoing delays in producing these documents, I am left with no choice but to issue the enclosed subpoena to compel production of these documents.

Moreover, since our requests for documents related to the Clinton email server investigation were made, it has come to light that the FBI's Office of Professional Responsibility recommended the dismissal of former FBI Deputy Director Andrew McCabe. This recommendation appears to be based, at least in part, on events related to the investigation surrounding former Secretary Clinton's private email server. Accordingly, the subpoena additionally covers all documents and communications relied upon by FBI's Office of Professional Responsibility in reaching its decision to recommend the dismissal of former Deputy Director McCabe.

Thank you for your prompt attention to this important matter. If any part of the production has been designated as classified pursuant to Executive Order 13526, please

The Honorable Rod J. Rosenstein  
March 22, 2018  
Page 2

contact Committee majority staff so that arrangements may be made to ensure that the documents are handled appropriately within the House.

Sincerely,

A handwritten signature in black ink that reads "Bob Goodlatte". The signature is written in a cursive, flowing style.

Bob Goodlatte  
Chairman

Enclosure

cc: The Honorable Jerrold Nadler

**SUBPOENA**

**BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE  
CONGRESS OF THE UNITED STATES OF AMERICA**

To The Honorable Rod J. Rosenstein, Deputy Attorney General

You are hereby commanded to be and appear before the  
Committee on the Judiciary

of the House of Representatives of the United States at the place, date, and time specified below.

- to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 2138 Rayburn House Office Building

Date: April 5, 2018

Time: 12:00 noon

- to testify at a deposition touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

- to testify at a hearing touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

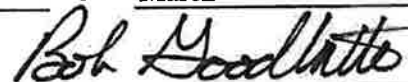
Date: \_\_\_\_\_

Time: \_\_\_\_\_

To Any authorized staff member

\_\_\_\_\_ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at  
the city of Washington, D.C. this 22 day of March, 2018.



Chairman or Authorized Member

Attest:



Clerk

## PROOF OF SERVICE

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Subpoena for

The Honorable Rod J. Rosenstein, Deputy Attorney General

Address United States Department of Justice, 950 Pennsylvania Ave. NW, Washington, D.C. 20530

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before the Committee on the Judiciary

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*U.S. House of Representatives  
115th Congress*

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Served by (print name) Eric Bagwell

Title Senior Legislative Clerk

Manner of service Hand delivery

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Date 03/22/2018

Signature of Server \_\_\_\_\_

Address 2138 Rayburn House Office Building, Washington, DC 20515

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## SCHEDULE

In accordance with the attached instructions for responding to Judiciary Committee document requests, you are required to produce the following documents in unredacted form:

1. All documents and communications provided to or obtained by the Department of Justice's Office of the Inspector General (OIG) regarding the FBI's decision-making with respect to the FBI's investigation of former Secretary Clinton's private email server;<sup>1</sup>
2. Documents sufficient to show the names, titles, and business addresses of all personnel who participated in deliberations concerning the decision whether to charge Clinton. In lieu of documents, you may provide a list of the requested information;
3. The document referenced by James Rybicki during his January 18, 2018 interview with the Committee referring or relating to court cases or judicial decisions used in considering, justifying, or communicating possible charges against, or decisions not to charge, Clinton;
4. All documents and communications relied upon by FBI's Office of Professional Responsibility in reaching its decision to recommend the dismissal of former FBI Deputy Director Andrew McCabe;
5. All documents and communications with the Foreign Intelligence Surveillance Court ("FISC") referring or relating to any Foreign Intelligence Surveillance Act ("FISA") applications associated with Carter Page or individuals on President Trump's 2016 presidential campaign or part of the Trump administration;
6. All documents and communications referring or relating to FISC hearings and deliberations, including any court transcripts, related to any FISA applications associated with Carter Page or the Trump campaign or Trump administration;
7. All documents and communications referring or relating to internal Department of Justice or FBI management requests to review, scrub, report on, or analyze any reporting of FISA collection involving, or coverage mentioning, the Trump campaign or Trump administration;
8. All documents and communications referring or relating to defensive briefings provided by the Department of Justice or FBI to the 2016 presidential campaigns of Clinton or President Trump; and,

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<sup>1</sup> This request does not, at this time, include records of grand jury deliberations or proceedings covered by Rule 6(e) of the Federal Rules of Criminal Procedure. This exclusion, however, does not extend to documents merely presented to the grand jury, derived from documents presented to a grand jury, or any documents revealing when the court made the decision to empanel a grand jury.

9. All documents and communications referring or relating to proposed, recommended, or actual FISA coverage on the Clinton Foundation or persons associated or in communication with the Clinton Foundation.



## RESPONDING TO JUDICIARY COMMITTEE DOCUMENT REQUESTS

*In responding to the document request, please apply the instructions and definitions set forth below:*

### INSTRUCTIONS

1. In complying with this request, you should produce all responsive documents in unredacted form that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you.
2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.
4. Each document should be produced in a form that may be copied by standard copying machines.
5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's request to which the document responds.
6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced.
7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.
8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.
9. The Committee requests electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), you should immediately consult with Committee majority staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject, and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.

11. If any document responsive to this request was, but no longer is, in your possession, custody, or control, state:

- a) how the document was disposed of;
- b) the name, current address, and telephone number of the person who currently has possession, custody, or control over the document;
- c) the date of disposition; and
- d) the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.

12. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction, or unavailability.

13. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents that would be responsive as if the date or other descriptive detail were correct.

14. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

15. All documents should be Bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.

16. Two sets of the documents should be delivered to the Committee, one set to the majority staff in Room 2138 of the Rayburn House Office Building and one set to the minority staff in Room 2142 of the Rayburn House Office Building. You should consult with Committee majority staff regarding the method of delivery prior to sending any materials.

17. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide a log containing the following information concerning every such document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author, and addressee; (e) the relationship of the author and addressee to each other; and (f) any other description necessary to identify the document and to

explain the basis for not producing the document. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

- a) Any objections or claims of privilege are waived if you fail to provide an explanation of why full compliance is not possible and a log identifying with specificity the ground(s) for withholding each withheld document prior to the request compliance date.
- b) In complying with the request, be apprised that (unless otherwise determined by the Committee) the Committee does not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.
- c) Any assertion by a request recipient of any such non-constitutional legal bases for withholding documents or other materials shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committee (or the chair of the Committee, if authorized) has consented to recognize the assertion as valid.

18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

19. Upon completion of the document production, you must submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request, and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a log provided to the Committee, as described in (17) above, or identified as provided in (10), (11), or (12) above.

20. When representing a witness or entity before the Committee in response to a document request or request for transcribed interview, counsel for the witness or entity must promptly submit to the Committee a notice of appearance specifying the following: (a) counsel's name, firm or organization, and contact information; and (b) each client represented by the counsel in connection with the proceeding. Submission of a notice of appearance constitutes acknowledgement that counsel is authorized to accept service of process by the Committee on behalf of such client(s) and that counsel is bound by and agrees to comply with all applicable House and Committee rules and regulations.

## DEFINITIONS

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail ("e-mail"), instant messages, text messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, power point presentations, spreadsheets, and work sheets. The term "document" includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto.
2. The term "documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.
3. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in an in-person meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
4. The terms "and" and "or" should be construed broadly and either conjunctively or disjunctively as necessary to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders.
5. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.
6. The terms "referring" or "relating," with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.
7. The terms "you" or "your" means and refers to you as a natural person and the United States and any of its agencies, offices, subdivisions, entities, officials, administrators, employees,

attorneys, agents, advisors, consultants, staff, contractors, or any other persons acting on your behalf or under your control or direction; and includes any other person(s) defined in the document request letter.

8. The term "administration" means and refers to any department, agency, division, office, subdivision, entity, official, administrator, employee, attorney, agent, advisor, consultant, staff, or any other person acting on behalf or under the control or direction of the Executive Branch.

