

115TH CONGRESS
2D SESSION

H. RES. 907

Expressing the sense of Congress that the Attorney General of the United States should appoint a Special Counsel to investigate misconduct at the Department of Justice and Federal Bureau of Investigation, including an investigation of abuse of the FISA warrant process, how and why the Hillary Clinton probe ended, and how and why the Donald Trump-Russia probe began.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2018

Mr. ZELDIN (for himself, Mr. GOSAR, Mr. GAETZ, Mr. PERRY, Mr. DESANTIS, Mr. MOONEY of West Virginia, Mr. DESJARLAIS, Ms. TENNEY, Mr. MEADOWS, Mr. JODY B. HICE of Georgia, Mr. GOHMERT, Mr. ROTHFUS, Mr. JORDAN, Mr. BUDD, Mr. ROUZER, Mr. YOHIO, Mr. BRAT, Mr. ROKITA, Mr. BIGGS, Mr. POE of Texas, Mr. WILLIAMS, Mr. DUNCAN of South Carolina, Mr. GIBBS, Mrs. BLACK, and Mr. ISSA) submitted the following resolution; which was referred to the Committee on the Judiciary

RESOLUTION

Expressing the sense of Congress that the Attorney General of the United States should appoint a Special Counsel to investigate misconduct at the Department of Justice and Federal Bureau of Investigation, including an investigation of abuse of the FISA warrant process, how and why the Hillary Clinton probe ended, and how and why the Donald Trump-Russia probe began.

Whereas there is an urgent need for the appointment of a second Special Counsel in light of evidence that raises

critical concerns about decisions, activities, and inherent bias displayed at the highest levels of the Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) regarding FISA abuse, how and why the Hillary Clinton email probe ended, and how and why the Donald Trump-Russia probe began;

Whereas the concerns of the American people are serious and the issues requiring an immediate, unbiased, independent, and thorough investigation are broad;

Whereas misconduct during the 2016 presidential election by high-ranking individuals within the FBI and DOJ may have led to the premature conclusion of the FBI's 2016 probe into then-presidential candidate and former Secretary of State Hillary Clinton;

Whereas during her tenure as Secretary of State, Hillary Clinton violated Federal law, and Department of State rules, regulations, and protocol, by using a private email server in her Chappaqua, New York, home;

Whereas official communications were transmitted on an unsecured server and included emails that contained classified information when they were sent, in addition to additional emails which were retroactively deemed classified by the Department of State;

Whereas FBI Director James Comey acknowledged that 65 of these illicit emails were classified as "Secret" and 22 were classified as "Top Secret";

Whereas there is significant evidence that the use of this private server by Secretary Clinton was meant to avoid compliance with the Freedom of Information Act (5 U.S.C. 552) and done to obstruct justice by not having to turn over incriminating emails in the case of a subpoena;

Whereas various sensitive emails subject to grand jury and congressional subpoenas were destroyed on Secretary Clinton's private server through the use of "BleachBit" software and the destruction of hardware before they could be obtained by investigators in March 2015;

Whereas in a September 2015 meeting between then-Attorney General Loretta Lynch and then-Director Comey, the Attorney General instructed Director Comey to refer to the Clinton email investigation as a "matter", thus watering down the severity of the investigation and aligning the FBI's rhetoric with the messaging of the Clinton campaign;

Whereas Cheryl Mills, who served as Counselor and Chief of Staff to Hillary Clinton during her entire tenure as United States Secretary of State, was offered immunity from prosecution by the FBI during this investigation in exchange for access to her laptop that contained many of the questionable emails;

Whereas according to transcripts obtained by the Senate Judiciary Committee, former Director Comey was prepared to exonerate Hillary Clinton as early as April or May of 2016 when he began to draft a statement announcing the end of his investigation, before up to 17 key witnesses, including former Secretary Clinton and several of her closest aides, were interviewed;

Whereas former Director Comey contradicted these transcripts when he stated during sworn testimony before the House Judiciary Committee on September 28, 2016, that he made the decision not to recommend criminal charges for Secretary Clinton "after" she was interviewed by the FBI on July 2, 2016;

Whereas Director Comey, in the final draft of his statement, allowed FBI Agent Peter Strzok to replace “grossly negligent”, which is legally punishable under Federal law, with “extremely careless”, which is not legally punishable under Federal law;

Whereas Federal law states gross negligence in handling the Nation’s intelligence can be punished criminally with prison time or fines (18 U.S.C. 793, 798);

Whereas on June 27, 2016, Attorney General Lynch had a covert meeting with former President Bill Clinton aboard her plane on the tarmac in Phoenix, Arizona;

Whereas on July 5, 2016, Director Comey violated DOJ rules and unilaterally exonerated then-presidential candidate Hillary Clinton in a public statement to the media;

Whereas one day later, on July 6, 2016, an announcement followed from Attorney General Lynch that the DOJ investigation into then-presidential candidate Hillary Clinton would be formally closed with no criminal charges;

Whereas in September 2016, the FBI, during an examination of the personal laptop of former Congressman Anthony Weiner as part of an unrelated investigation into him sending sexually explicit messages to a teenage girl, discovered previously unexamined Department of State classified emails belonging to his spouse, top Clinton aide Huma Abedin;

Whereas FBI Deputy Director Andrew McCabe’s wife, Dr. Jill McCabe, was running for Virginia State Senate at the time and, as of October 26th, had received \$675,000 in donations from the Virginia Democratic Party and Common Good VA, the Leadership PAC controlled by

Democratic Virginia Governor Terry McAuliffe, a long-time Clinton associate;

Whereas an investigation conducted by the Office of the DOJ Inspector General noted that on October 27, 2016, Director Comey required that Deputy Director McCabe remove himself from a conference call regarding the Clinton emails discovered on Anthony Weiner's laptop to avoid the appearance of a conflict of interest after media reports surfaced noting these questionable political donations;

Whereas it took until October 28, 2016, for Director Comey to announce via a letter to the chairs of the relevant congressional committees that he was reopening the investigation into Hillary Clinton, an additional, egregious delay after the FBI failed to even examine the illicit emails after the FBI discovered them on Anthony Weiner's computer;

Whereas further investigation into whether then-FBI Deputy Director McCabe and other FBI officials sought to purposely delay the release of these illicit emails for politically motivated purposes is warranted;

Whereas throughout the Obama Administration, the DOJ failed to fully investigate serious concerns surrounding former President Clinton, then-Secretary of State Clinton, and the Clinton Foundation's connection to Russian company Uranium One, which received Department of State approval to purchase U.S. uranium mines in 2010;

Whereas throughout Hillary Clinton's tenure as Secretary of State, a family foundation controlled by the Chairman of Uranium One made \$2,350,000 in contributions to the Clinton Foundation which were not publicly disclosed in

violation of an agreement Secretary Clinton had with the Obama White House to publicly identify all donors;

Whereas in 2010, while Russian State interests were working to both acquire a majority stake in Uranium One and to purchase American mines, Bill Clinton was paid \$500,000 for a speech in Moscow by a Kremlin-linked Russian investment bank that was underwriting Uranium One stock;

Whereas a confidential informant who worked with the FBI to uncover bribery and other corruption related to the Uranium One matter was threatened with reprisal by the Justice Department under Attorney General Lynch when he tried to come forward in 2016;

Whereas the Senate Judiciary Committee launched a probe in October 2017 to investigate the Uranium One matter, including whether Federal departments and agencies such as the Department of State knew the FBI was looking into possible corruption before the deal was approved;

Whereas an investigation conducted by the Office of the DOJ Inspector General noted that a multi-State investigation into the questionable dealings of the Clinton Foundation with corrupt donors was shut down in August 2016, when pressure was asserted on the FBI by senior officials within the Obama Justice Department;

Whereas the same Inspector General's report also noted that shutting down this investigation into Clinton Foundation impropriety and influence peddling was connected to high ranking officials in the DOJ and FBI, including Attorney General Lynch, Director Comey, and Deputy Director McCabe;

Whereas the same Inspector General’s report also found that Deputy Director McCabe, after consenting to the political pressure to shut down the Clinton Foundation multi-State investigation, attempted to later use unauthorized leaks to the press to create a false narrative that he was opposed to the closure of the investigation and that he did this in an attempt to salvage his reputation following revelations of questionable Clinton-connected money being donated to his wife’s Virginia State Senate campaign;

Whereas in October 2016, the FBI and DOJ used politically biased, unverified sources to obtain warrants issued by the United States Foreign Intelligence Surveillance Court of Review (FISA Court) that aided in the surveillance of U.S. citizens, including Carter Page;

Whereas these warrants grant U.S. intelligence and law enforcement agencies sweeping power to collect bulk information and conduct “about collection”, which results in surveillance of a broad array of private communications from the past, present, and future, including those of U.S. citizens not specifically targeted in the FISA authorized warrant;

Whereas to obtain these warrants, FBI and DOJ officials submitted an unverified dossier prepared by Christopher Steele to the FISA Court, failing to disclose that Christopher Steele was hired by the firm Fusion GPS, which was hired by the Democratic National Committee and Hillary Clinton campaign to prepare this dossier and that the source was unreliable and was soon thereafter going to be terminated as a source;

Whereas the FISA Court was not informed that Christopher Steele was actively opposed to the election of Donald

Trump, that he was the unnamed source cited in the media reports that the FBI used to corroborate his dossier, and that Fusion GPS had been hired to perform previous anti-Trump research efforts in 2015;

Whereas the Woods Procedures, which are the FBI's mandatory vetting process required for all FISA warrant applications instituted to ensure that all the facts contained in an application are accurate and verified to clearly support probable cause for a warrant, were not followed;

Whereas former Director Comey admitted in sworn testimony to the Senate Judiciary Committee on June 8, 2017, that material contained in the Steele dossier was known to be both "salacious" and "unverified";

Whereas since FISA warrant applications are rarely turned down, are almost never subject to appeal, and are presented in closed court with no public record where the Government is not challenged by any defense, it is imperative that the Government take extra care to validate the information being utilized to build their case before they take the extraordinary step of waiving rights of a U.S. citizen without his or her knowledge or the opportunity to present a defense;

Whereas at the FISA Court, the Government has a responsibility not only to provide its best evidence in support of its case, but also to provide the best evidence against its case;

Whereas these deeply flawed and questionable FISA warrant applications utilizing illicit sources and politically biased intelligence were approved by DOJ and FBI officials at the highest levels before being submitted to the FISA Court;

Whereas it was further not disclosed to the FISA court that the wife of fourth-ranking DOJ official Bruce Ohr worked for Fusion GPS and that Christopher Steele directly transmitted the dossier and other information through Bruce Ohr for submission to the FISA court;

Whereas to this day there does not appear to be any evidence that President Trump colluded with the Russians to win the 2016 election;

Whereas the initial FBI probe into the Trump Campaign and alleged collusion with Russia was launched in July 2016, based on questionable and insufficient intelligence and biased motivations;

Whereas former Director Comey prepared a series of seven memoranda containing classified information, including notes on his conversations with President Trump;

Whereas former Director Comey admitted in sworn testimony to the Senate Committee on Intelligence on June 8, 2017, that he had leaked this content to a personal friend and encouraged that friend to share the material with the press in order to trigger a Special Counsel investigation;

Whereas an investigation conducted by the Senate Judiciary Committee later revealed that the personal friend of Director Comey was Professor Daniel Richman of Columbia Law School and that Director Comey provided him with four of the seven memoranda;

Whereas Director Comey's actions are a clear violation of non-disclosure agreements he signed as a condition of his appointment and a clear violation of FBI protocols regarding the dissemination of sensitive information outside

of the Bureau which are based on provisions of the Privacy Act of 1974 (5 U.S.C. 552a);

Whereas text messages exchanged between FBI Agent Strzok and FBI Counsel Lisa Page, during the period of August 16, 2015, to May 17, 2017, contain serious evidence of political bias and the improper handling of investigations within the agency;

Whereas the texts contain egregious evidence of bias against President Trump, including Lisa Page stating “Trump should go f himself” and Peter Strzok stating “F TRUMP”;

Whereas those text messages were not stored within the FBI archive system, an egregious oversight blamed on a technical glitch, and even after these messages were partially recovered by the Bureau’s Inspector General in January 2018, many unanswered questions remain regarding impropriety and bias;

Whereas in March 2018, former FBI Deputy Director McCabe was fired by Attorney General Jeff Sessions who noted that Deputy Director McCabe “lacked candor—including under oath—on multiple occasions” and had partaken in “unauthorized disclosure to the news media”, among other violations noted in a report issued by the Office of the DOJ Inspector General after a wide-reaching investigation into Deputy Director McCabe’s conduct;

Whereas a myriad of DOJ and FBI personnel have been fired or demoted, or have resigned, including FBI Director Comey, Deputy Director McCabe, Chief of Staff to the Director James Rybicki, FBI General Counsel James Baker, FBI Agent Strzok, FBI Counsel Page, FBI Special Agent Josh Campbell, DOJ Senior Official Ohr, FBI

Assistant Director Michael Kortan, and Assistant Attorney General Peter Kadzik;

Whereas evidence has come to light that raises serious concerns about egregious misconduct within the DOJ and FBI rooted in political bias;

Whereas the DOJ, FBI, or both appear to have planted at least one person into Donald Trump's Presidential campaign to infiltrate and surveil the campaign;

Whereas the DOJ has failed to timely comply with several related document requests by Congress;

Whereas providing Members of Congress with heavily redacted versions of some but not all of the documents demanded and offering Members limited in-person viewing of these documents is an inadequate response to repeated requests after months of delay by the DOJ;

Whereas the mission of the Office of the DOJ Inspector General is limited to detecting and deterring waste, fraud, abuse, and misconduct in DOJ programs and personnel and promoting economy and efficiency in those programs, and a fully independent Special Counsel has greater autonomy than an Inspector General or Federal prosecutors to run a non-biased investigation and if necessary bring forth criminal charges; and

Whereas the DOJ and FBI cannot be expected to fully investigate themselves regarding this matter: Now, therefore, be it

1 *Resolved*, That it is the sense of Congress that—

2 (1) DOJ, FBI, and all Federal law enforcement
3 agencies have a sacred duty to uphold our Constitu-
4 tion and to protect our country without any partisan

1 or ideological inclination affecting their important
2 work;

3 (2) Congress acknowledges with gratitude that
4 the vast majority of the men and women who serve
5 within these critical agencies do so with the utmost
6 integrity, independence, patriotism, and commitment
7 to the rule of law;

8 (3) misconduct regarding FISA abuse, how and
9 why the Hillary Clinton probe ended, and how and
10 why the Trump-Russia probe began should imme-
11 diately be investigated by a Special Counsel who can
12 act independently; and

13 (4) the Attorney General of the United States
14 should immediately appoint a Special Counsel to
15 conduct a thorough and independent investigation of
16 these grave concerns.

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