

OPEN THE GOVERNMENT

AMERICANS FOR LESS SECRECY, MORE DEMOCRACY

May 15, 2017

The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Suite 4706
Washington, D.C. 20530

RE: Restoring Public Trust Following the Dismissal of James Comey

Dear Inspector General Horowitz,

As advocates for accountable government, OpenTheGovernment is deeply concerned by reports of the circumstances surrounding the dismissal of former FBI Director James Comey. We are particularly troubled by the prospect that Mr. Comey was fired due to his role in the Justice Department's inquiry into possible connections between the Russian government and President Trump's election campaign. There have also been reports of possible White House interference in the investigation,¹ and Attorney General Jeff Sessions appears to have violated his recusal from Justice Department investigations involving the election.² These factors have shaken public trust in the integrity of the Justice Department's investigation, and we request that you promptly take measures to restore public confidence.

First, we ask that you ensure that all government records related to the Justice Department's investigation into possible Russian interference in the 2016 U.S. election are being properly preserved and transferred to the appropriate officials. The fact that Mr. Comey was not at his office at the time of his reportedly unexpected dismissal raises serious questions about whether his records are being managed in accordance with the Federal Records Act.³ When asked by a journalist about measures being taken to secure Mr. Comey's records, an FBI spokesperson responded that the Bureau had "[no] further comment."⁴ Confirming that all documents related to the investigation, including electronic records, are being appropriately preserved and disseminated will help to assure the public that there has been no improper political interference in the investigation.

¹ *NPR*, May 11, "Trump Says He Planned To Fire 'Grandstander' Comey 'Regardless Of Recommendation.'"

² *NBC News*, May 10, "Did AG Sessions Violate His Recusal by Advising on Comey Firing?"

³ *Los Angeles Times*, May 9, "Comey was 'caught flat-footed' and learned of firing from TV while talking to FBI agents in L.A., source says."

⁴ *Ars Technica*, May 11, "Ex-feds confident Comey's devices and files are safe, even if FBI won't confirm."

Second, we request you recommend that the Justice Department identify categories of records that merit review and immediate disclosure to the public, in accordance with the Freedom of Information Act (FOIA). The FOIA reforms passed last year codified the presumption of openness, recognizing that, except in narrowly tailored circumstances, government information belongs in the hands of the people. The FOIA statute permits withholding information only if an agency reasonably foresees that disclosure would harm an interest protected by an exemption described in the statute, or if disclosure is prohibited by law. Moreover, agencies are required to determine whether records previously released through FOIA are likely to be the subject of multiple future FOIA requests. If so, they must be reviewed and considered for immediate online disclosure. Correspondence relating to Mr. Comey's removal as well as communications between the House Intelligence Committee Chairman David Nunes, the DOJ, or other agency officials and the White House regarding the Russia investigation are among records likely to be the subject of multiple FOIA requests and therefore subject for review and immediate disclosure.

We believe it is urgent that you ensure the disclosure of the information requested in this letter to begin to restore public confidence in the Justice Department. Congressman Jason Chaffetz requested Wednesday that you expand the scope of your ongoing investigation into the FBI's conduct prior to last year's election to include the circumstances of Mr. Comey's removal.⁵ We support his request, and while we believe the information we have requested should be published as soon as possible, it must, at minimum, be included in your final report on that investigation.

Thank you for your attention to this matter. If you have any questions, please don't hesitate to contact me at rosenberg@openthegovernment.org or 202-332-6736.

Sincerely,

/s/

Lisa Rosenberg
Executive Director
OpenTheGovernment

⁵ House Oversight and Government Reform Committee, [Letter to Inspector General Michael E. Horowitz from Representative Jason Chaffetz](#), May 10.