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July 21, 2017

The Honorable Jeff Sessions
Attorney General
Washington, D.C.

Dear Attorney General Sessions,

As you know, you lead a Department over which the House Judiciary Committee has primary oversight jurisdiction. Throughout the Obama Administration, the Judiciary Committee sent letters to your predecessors as Attorney General, and to individual DOJ components, requesting answers to a multitude of questions concerning various issues of interest stemming from Judiciary hearings and oversight responsibilities. Many of the inquiries remain unanswered, with some outstanding requests approaching two years overdue.

Congressional oversight is not a responsibility that we take lightly, and our ability to provide this service for the American people is most effective when we work in cooperation with the Administration. Considering that the Obama Administration failed to respond to a host of requests over the years, we write now asking you to rectify this situation, by helping the Judiciary Committee obtain answers to outstanding oversight questions. To that end, we have attached a list of letters and/or questions that remain either unanswered or inadequately addressed by the previous Administration. Please review the attached list, and provide us with answers at your earliest convenience.

Thank you for giving this request priority. We know that we share the common goals of identifying instances of waste, fraud, and abuse, rooting out such conduct, and implementing solutions necessary to help ensure they do not happen again in the future. I look forward to working with you on this effort.

Sincerely,



Lamar Smith

Blake Feltz

Steve Chalot

Joe DeLoach

J. Jordan

Kevin Schmitt

Raúl R. Labrador

Mr. DeLoach

Andy Biggs

Ken Buck

Matt Meyer

Mike Johns

AMM

Tom Marino

Pentti/Pentti

Tracy Lewis

Steve King

John H. Pittinger

Matthew Roby

Doug Chu

John Ratchiffe

Karen Caudill

Attachment A
List of Outstanding Letters

JUDICIARY COMMITTEE LETTERS TO DOJ, FBI, U.S. ATTORNEY, AND INSPECTOR GENERAL

7/17/14: Questions for the Record submitted to Stuart F. Delery following hearing entitled, "Guilty Until Proven Innocent? A Study of the Propriety & Legal Authority for Operation Choke Point" (see Attachment B)

2/5/15: Goodlatte Letter to Holder on Fraud, Mismanagement and Abuse regarding Moonlight Fire Settlement (see Attachment B)

5/19/15: Questions for the Record submitted to Caroline D. Ciralo, Acting Assistant Attorney General, Tax Division (see Attachment B)

7/17/15: Goodlatte & Franks Call on DOJ to Investigate Planned Parenthood
<https://judiciary.house.gov/press-release/goodlatte-franks-call-on-doj-to-investigate-planned-parenthood/>

11/17/15: Questions for the Record submitted to Attorney General Lynch following hearing entitled, "Oversight of the U.S. Department of Justice"

2/25/16: Questions for the Record submitted to David Bitkower following hearing entitled, "International Conflicts of Law and their Implications for Cross Border Data Requests"

3/1/16: Questions for the Record submitted to FBI Director Comey following hearing entitled, "The Encryption Tightrope: Balancing Americans' Security and Privacy"

7/5/16: Goodlatte Presses for Information on FBI's Investigation into Hillary Clinton
<https://judiciary.house.gov/press-release/goodlatte-presses-information-fbis-investigation-hillary-clinton/>

7/11/16: Goodlatte & Gowdy Lead Letter Signed by 200 Members Pressing Director Comey About Clinton Investigation
<https://judiciary.house.gov/press-release/goodlatte-gowdy-lead-letter-signed-200-members-pressing-director-comey-clinton-investigation/>

7/11/16: Goodlatte, Chaffetz Letter to DC USAO Requesting Perjury Investigation of Hillary Clinton
<https://judiciary.house.gov/press-release/goodlatte-chaffetz-request-perjury-investigation-hillary-clinton/>

8/15/16: Goodlatte, Chaffetz Letter to DC USAO Outlining Case for Perjury against Clinton
<https://judiciary.house.gov/press-release/goodlatte-chaffetz-outline-case-perjury-clinton/>

10/3/16: Goodlatte Presses Justice Department on Secret Agreements with Top Clinton Advisors
<https://judiciary.house.gov/press-release/goodlatte-presses-justice-department-secret-agreements-top-clinton-advisors/>

10/5/16: Goodlatte, Chaffetz, Grassley, Nunes Letter to DOJ Regarding Mills and Samuelson Laptops
https://judiciary.house.gov/wp-content/uploads/2016/10/100516_-Joint-Letter-to-AG-Lynch.pdf

10/11/16: Goodlatte & Judiciary Republicans Letter to DOJ/State OIG Calling for Independent Investigation of Special Treatment Given to Key Clinton Insiders
<https://judiciary.house.gov/press-release/goodlatte-judiciary-republicans-call-independent-investigation-special-treatment-given-key-clinton-insiders/>

10/12/16: Goodlatte Letter Following Up on October 3 Letter, and Asking Additional Questions About Laptops (see Attachment B)

10/18/16: Goodlatte Calls on Justice Department to Investigate Undersecretary Kennedy for Violating the Law
<https://judiciary.house.gov/press-release/goodlatte-calls-justice-department-investigate-undersecretary-kennedy-violating-law/>

10/21/16: Goodlatte to FBI: Clinton Advisor's Use of Laptop Made by a Chinese Company Raises National Security Concerns
<https://judiciary.house.gov/press-release/goodlatte-clinton-advisors-use-laptop-made-chinese-company-raises-national-security-concerns/>

11/3/16: Goodlatte and Chaffetz Call on DOJ to Preserve All Clinton Investigation Documents
<https://judiciary.house.gov/press-release/goodlatte-chaffetz-call-doj-preserve-clinton-investigation-documents/>

11/7/16: Goodlatte Calls on Director Comey to Answer Questions Clouding the Clinton Investigation
<https://judiciary.house.gov/press-release/goodlatte-calls-director-comey-answer-questions-clouding-clinton-investigation/>

Attachment B
Additional Letters

**Questions for the Record from
Chairman Bachus
for the Oversight Hearing on
"Guilty Until Proven Innocent? A Study of the Propriety & Legal Authority for the Justice
Department's Operation Choke Point"
July 17, 2014**

Questions for the Honorable Stuart F. Delery

1. The Committee has received numerous reports of widespread client terminations within specific industries as a result of Operation Choke Point. Whether or not it was DOJ's intention, do you deny that it is happening?
2. ZestFinance is an online lending startup founded by a Princeton graduate who is the former Chief Information Officer at Google. It uses mathematical analysis of large consumer data sets to offer loans at a "far lower" cost than competing products. ZestFinance submitted a statement to the Committee that, as a result of Operation Choke Point, they have already had to lay off 45% of their workforce. Were you aware that this has been happening?
 - a. If yes, how specifically has the Division responded? Has it met with company representatives or taken any corrective action, either in this case or more broadly?
 - b. If not, are you worried about what similar cases you might be missing where Operation Choke Point is destroying innovation, killing jobs and harming the very people it is supposed to be helping?
 - c. What specifically will the Division do to avoid further collateral damage of this kind?
3. The Comptroller of the Currency has lamented a trend toward "de-risking," the practice of "simply abandoning customers in higher risk categories because a lack of resources makes it difficult to manage the risk." Whether or not DOJ intended de-risking to occur as a result of Operation Choke Point, it seems clear that it is happening now. Accordingly, do you agree that DOJ can no longer claim this consequence is unintended if it allows Operation Choke Point to continue without changes? If so, what specific changes are you pursuing to avoid and reverse unnecessary de-risking?
4. In your testimony, you reference a 30% return rate as an indicator of fraud. At the hearing, a copy was produced of an Operation Choke Point subpoena demanding extensive records of processors & merchants with just a 3% return rate. DOJ has sent more than 50 subpoenas. What percentage of them demand information based on a 3% return rate or other rate lower than the 30% rate?
5. How precisely was that 3% benchmark developed? What was the financial expertise of those who developed it?
6. A memo to you about Operation Choke Point noted that DOJ may be "filing civil complaints or criminal cases against banks based on transactions with fraudulent merchants and/or

processors -- but not filing actions against the underlying fraudulent merchants or processors." How many lawsuits have you filed as a result of Operation Choke Point against the "underlying fraudulent merchants or processors"?

7. What alternatives to Operation Choke Point, better tailored to address fraud and avoid collateral damage, have you considered, or are you considering? For example, have you considered or are you considering establishing safe harbors to facilitate cooperation with regulators, such as a safe harbor that would allow payments companies, which were not directly involved in the fraudulent activities of a merchant, to work with regulators without unnecessarily triggering an enforcement action.
8. At the hearing, we heard testimony that Operation Choke Point is merely enforcing long standing "know your customer" obligations under the Bank Secrecy Act. If so, why isn't the Financial Fraud Enforcement Task Force pursuing these cases under that statute and its implementing regulations instead of FIRREA?
9. Does federal law prohibit banks and other lenders from offering unsecured consumer loans with APRs that exceed 36% to consumers other than uniformed military personnel?

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SCOTT PETERS, California

February 5, 2015

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
Washington, DC 20530

Dear Attorney General Holder:

I am concerned to read several news reports about allegations of mismanagement, fraud, and abuse by employees of the Department of Justice in regard to the ongoing legal battle surrounding the Moonlight fire.¹ According to the *Sacramento Bee*, in 2012, Sierra Pacific Industries paid the federal government \$47 million and deeded it 22,500 acres of its land to compensate for damages caused by a wildfire, known as the Moonlight fire, which devastated more than 40,000 acres in two national forests in California.² Now Sierra Pacific Industries is asking a federal court to vacate this settlement due to "fraud upon the court."³

According to the *Sacramento Bee*, "[t]he company contends federal prosecutors sat by in pretrial depositions and knowingly allowed the California Department of Forestry and Fire Protection and U.S. Forest Service investigators to 'repeatedly lie under oath about the very

¹ See John Fund, *The Scandals at Justice*, National Review Online, Jan. 30, 2015, <http://www.nationalreview.com/article/397551/scandals-justice-john-fund>; *Prosecutors Burn Down the Law*, Wall Street Journal, Jan. 2, 2015, <http://www.wsj.com/articles/prosecutors-burn-down-the-law-1420242330>; Sidney Powell, *Why every American should care about California's Moonlight fire case*, FoxNews.com, Dec. 4, 2015, <http://www.foxnews.com/opinion/2014/12/04/why-every-american-should-care-about-california-moonlight-fire-case/>; Denny Walsh, *Sierra Pacific levels corruption allegations in renewed legal fight over Moonlight fire*, The Sacramento Bee, Oct. 9, 2015, <http://www.sacbee.com/news/local/article2645729.html>.

² Denny Walsh, *Sierra Pacific levels corruption allegations in renewed legal fight over Moonlight fire*, The Sacramento Bee, Oct. 9, 2015, <http://www.sacbee.com/news/local/article2645729.html>.

³ *Id.*

foundation of their investigation.”⁴ Sierra Pacific also contends that “the investigators’ origin-and-cause report is a fraudulent document that omits or distorts all information that might have hurt the government’s case.”⁵ According to the *Sacramento Bee*:

One of the documents Sierra Pacific filed is a declaration from a veteran former assistant U.S. attorney, who says he was forced to give up his position as the government’s lead lawyer in the Moonlight case, apparently because he rebuffed pressure from a superior to “engage in unethical conduct as a lawyer.”

The declaration from E. Robert Wright says he was bounced out of the case by his boss, David Shelledy, chief of the civil division in the U.S. attorney’s office, and replaced by a prosecutor with no previous experience in wildland fire recovery cases.⁶

While the Committee on the Judiciary exercises caution regarding inquiries into on-going litigation at the Department of Justice, these allegations regarding the Department’s conduct in this case are unsettling. In an effort to determine whether further investigation by this Committee is needed into this matter, I request that the appropriate employees of the Department of Justice brief my staff regarding the allegations raised by Sierra Pacific Industries.

Thank you in advance for your prompt attention to this request. Please have your staff respond to John Coleman, oversight counsel on the Subcommittee on the Constitution and Civil Justice, at (202) 225-2825 by Friday, February 13, 2015, to arrange the briefing.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bob Goodlatte", with a stylized, cursive script.

Bob Goodlatte
Chairman

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

Questions for the Record
Caroline D. Ciralo
Acting Assistant Attorney General, Tax Division
Subcommittee on Regulatory Reform, Commercial and Antitrust Law
Committee on the Judiciary
U.S. House of Representatives
May 19, 2015

Questions posed by Subcommittee Chairman Marino

Lois Lerner/Internal Revenue Service Targeting Issues

1. **Defense lawyers routinely have to worry about their clients withholding information from them. Similar considerations govern when DOJ lawyers represent agencies. For example, in February 2014, the Internal Revenue Service Chief Counsel to the Commissioner, Kate Duvall, learned that there were significant gaps in Lois Lerner's emails. Yet one month later, instead of preserving the material as relevant to pending litigation, Internal Revenue Service IT officials erased the backup tapes. What mechanisms were in place, prior to the Lois Lerner litigation, to ensure that the information Division lawyers presented to the court in that litigation was accurate? What changes have you made to those mechanisms in response to the lost emails and related problems that arose during the Lois Lerner litigation?**

Response:

The Tax Division represents the United States in civil suits arising under the internal revenue laws. When a suit is filed or the Tax Division's attorneys learn that litigation is reasonably anticipated and they will be representing the United States, the Tax Division's attorneys take the necessary steps to ensure that the Internal Revenue Service (IRS) fulfills its obligation to identify and preserve any material that is relevant to the claim or defense of any party in the litigation. Tax Division attorneys work with the appropriate agency employees to develop a reasonably comprehensive search strategy, and the Division's attorneys are instructed to follow up with the appropriate agency employees to ensure the agency is taking appropriate and reasonable steps to ensure that relevant material is preserved. The Tax Division's attorneys recognize and take seriously their duty to respond to discovery consistent with the applicable rules and existing law.

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SCOTT PETERS, California

October 12, 2016

The Honorable Loretta Lynch
Attorney General
U.S. Department of Justice
Washington, D.C.

Dear Attorney General Lynch:

On October 3, 2016, I sent you a letter asking ten questions about the immunity agreements and "side agreements" between the Department of Justice (DOJ), the Federal Bureau of Investigation (FBI), and Beth Wilkinson, the lawyer representing both Cheryl Mills and Heather Samuelson, in the investigation of former Secretary of State Hillary Clinton's use of a private email server. That letter, a copy of which is enclosed, asked for responses and a staff briefing by October 10, 2016.

As of today, I have not received responses to any of my questions, and my staff has not received a briefing from anyone in your Department. Please provide responses to those questions at once, and please answer the following questions as part of your response:

1. What are the standard FBI procedures for the retention and/or destruction of evidence following the conclusion of a criminal investigation? Please provide documentation.
2. Have the laptops belonging to Ms. Mills and Ms. Samuelson in fact been destroyed?
 - a. If so, were the standard procedures for destruction of evidence followed? If they were not, why not?
 - b. If the standard FBI procedures for destruction of evidence were followed with respect to the Mills and Samuelson laptops, please provide documentation showing that.
3. Please provide a timeline with respect to the Mills and Samuelson laptops, including when the FBI obtained them, when they were searched, and if they were destroyed, when.

Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in black ink, reading "Bob Goodlatte". The signature is written in a cursive style with a large, stylized "B" and a long horizontal stroke at the end.

BOB GOODLATTE
Chairman

Enclosure