

BECAUSE FACTS MATTER

The following segments identify the most egregious inaccuracies in the Office of Inspector General's (OIG) report as they pertain to former FBI Deputy Director Andrew McCabe:

Claim: Mr. McCabe violated FBI policy by disclosing sensitive information, in this case implicitly acknowledging the existence of an ongoing investigation.

Fact: This is false. Under FBI policy, as Deputy Director, Mr. McCabe had full authority to authorize sharing information with the media. It was an integral and significant part of his job – the FBI's Office of Public Affairs (OPA) reported directly to him and he dealt with press issues on a daily basis. In this case, a reporter had been leaked false and defamatory information about the FBI's handling of the Clinton Foundation investigation, including that Mr. McCabe had tried to shut it down. This was the opposite of the truth. As a result, Mr. McCabe authorized his Counsel and the head of FBI's OPA to share information that showed that, in fact, the FBI continued to pursue that investigation. Their interaction with the *Wall Street Journal (WSJ)* was not done in secret: it took place over the course of several days and others knew of it, including Director Comey. It was done to protect the institutional reputation of the FBI as a non-political and professional investigative agency, and therefore was squarely within the public interest exception to the FBI's prohibition on sharing sensitive material. The information shared was not classified and involved a matter that had already been widely reported on in the media for several months. This finding's reliance on Director Comey's after-the-fact view of the matter ignores the fact that Mr. McCabe had the independent authority to make that judgment and did so to the best of his ability.

Claim: Mr. McCabe lacked candor when he spoke to FBI Director Jim Comey about the *WSJ* article on or about October 31, 2016.

Fact: This is false. Former Director Comey sent his letter to Congress reopening the Clinton email investigation on Friday, October 28. Amidst the tumult and upheaval following the public disclosure of the letter, it is not surprising that Director Comey has an imperfect and inaccurate recollection of the conversation he had with Mr. McCabe about the October 31 *WSJ* article on that day, which is the basis for this OIG investigation and report. In fact, the OIG report makes clear that Director Comey's recollection is fragmentary and his statements are equivocal. By contrast, Mr. McCabe has a clear recollection that he did discuss aspects of the *WSJ* article with Director Comey. Again, by his own admission, Director Comey has no specific recollection of what Mr. McCabe told him. Mr. McCabe specifically remembers discussing the article generally and the portion of the article that indirectly acknowledged the existence of the FBI's Clinton Foundation investigation. It is undisputed that Mr. McCabe had the independent authority to decide to share information with a reporter. Emails between the two clearly show that Mr. McCabe specifically advised Director Comey that he was working with colleagues at the FBI to correct inaccuracies in the story before it was published, and that they remained in contact through the weekend while the work was taking place. The fact that the OIG chooses to credit Director Comey's equivocal and speculative testimony rather than Mr. McCabe's clear and unequivocal testimony, supported by documentary evidence, is inexplicable.

Claim: Mr. McCabe lacked candor when he discussed the *WSJ* article with the FBI Inspection Division investigators on May 9, 2017.

Fact: This is false. Mr. McCabe never deliberately misled Inspection Division (INSD) investigators. The meeting focused almost exclusively on a separate matter, and only very briefly on the *WSJ* article. That is reflected in the fact that in a 12-page draft statement prepared by INSD, the *WSJ* article occupied a single paragraph. The meeting was held shortly before Mr. McCabe learned that

Director Comey was fired and that he would become the Acting Director. In the hours and days that followed the meeting, Mr. McCabe led and inspired a global workforce of 37,000 people, met with the Attorney General and the President several times, testified before the Senate Intelligence committee, advanced the Russian interference investigation, and advocated for the appointment of a Special Counsel. It is completely understandable that he does not have a clear recollection of what INSD asked him in the moments before this chaos. However, when Mr. McCabe turned back to the draft statement they prepared for him several months later, he declined to sign it and instead contacted INSD to correct the inaccurate facts about his relationship to the *WSJ* article. If Mr. McCabe had wanted to hide his knowledge of the *WSJ* article, he could have simply signed the statement. He did not. He corrected the record. The OIG's account of Mr. McCabe's interactions with the INSD investigators is incomplete and misleading.

Claim: Mr. McCabe lacked candor when he was interviewed by the OIG in July 28, 2017.

Fact: This is false. In a break from procedure, OIG investigators requested that Mr. McCabe, then the FBI's Acting Director, appear immediately to address matters related to the OIG's review of the Clinton email investigation. Mr. McCabe knew he was a subject of aspects of that inquiry, and although his then-counsel was unavailable, he responded in an effort to comply with the OIG's request. The OIG investigators assured him they would not ask questions about matters that could involve him. Despite that assurance, after sharing with him for the first time the volume and nature of thousands of highly sensitive and inflammatory text messages between two FBI employees, they specifically asked him questions about the *WSJ* article, much to his confusion and contrary to his understanding of the ground rules of the discussion. He attempted multiple times to end the discussion as quickly as possible, with statements intended to delay discussion until counsel was present. Following the meeting, Mr. McCabe's main focus was on the urgent management and personnel decisions he had to take to deal with the text messages he was shown, and what he was told about those text messages by the OIG. After those matters had been addressed, Mr. McCabe thought further about his discussion with the OIG investigators and realized that he needed to correct the record. As a result, two business days after the meeting, he contacted the OIG and corrected his prior statements.

Claim: Mr. McCabe lacked candor in his interview with the OIG in November 29, 2017.

Fact: This is false. Mr. McCabe has given truthful and complete answers to the best of his recollection every time he has been asked questions about an interaction with a reporter that was quite clearly within his discretion to conduct. At all times, he told the truth to the best of his ability. This allegation is built on the shaky foundation of the allegations that he lacked candor in his dealings with Director Comey, INSD, and the OIG. What is entirely missing from the OIG's report is any evidence of a motive for Mr. McCabe to do anything but tell the truth about this matter. He didn't leak information to the *WSJ* reporter; he was authorized to provide it. He explicitly told Director Comey on multiple occasions, and documented in multiple emails, that he was working with other FBI personnel to correct inaccuracies in the story the reporter was working on. There was no significant blowback in the aftermath of the article's publication that might have created a motive to conceal his involvement. And Mr. McCabe worked closely with two other FBI employees on correcting the record, but never expressed any concern to them about the matter, nor made any suggestion that they should conceal what they had done. The OIG's conclusion is based on a deeply flawed assessment of the evidence against Mr. McCabe and fails to take into account evidence produced to him in the last two weeks that supports his position.

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