United States Senate
WASHINGTON, DC 20510

October 29, 2016

VIA ELECTRONIC TRANSMISSION

The Honorable Loretta E. Lynch
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

The Honorable James Comey
Director, Federal Bureau of Investigation
U.S. Department of Justice
935 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Attorney General Lynch and Director Comey:

Nearly four months ago, Director Comey announced that the Federal Bureau of Investigation (FBI) would not recommend criminal charges related to Secretary Hillary Clinton's use of a private email server, stating that no reasonable prosecutor would move forward with a criminal case, and that his decision "was not a close call." Yet on Friday, Director Comey sent a letter to Congress in which he indicated that the FBI learned of the existence of emails in an unrelated case that appear to be pertinent to its investigation of former Secretary Hillary Clinton's personal email server. Director Comey also indicated that he had authorized agents to "take appropriate investigative steps" to determine *whether* they contain classified information, and *whether* they are important to the investigation.

This letter is troubling because it is vaguely worded and leaves so many questions unanswered. It is not clear whether the emails identified by the FBI are even in the custody of the FBI, whether any of the emails have already been reviewed, whether Secretary Clinton sent or received them, or whether they even have any significance to the FBI's previous investigation. The letter is also troubling because it breaks with the longstanding tradition of Department of Justice and the FBI of exercising extreme caution in the days leading up to an election, so as not to unfairly influence the results.

Subsequent to the release of Director Comey's letter yesterday, the media reported that officials at the FBI provided conflicting information to a number of media organizations regarding the purpose of Director Comey's letter and the facts related to these emails. In addition, we are aware of an internal memo reportedly sent yesterday by Director Comey to FBI staff in which he explained his decision to "take appropriate steps to obtain and review" the emails. In that memo, Director Comey stated: "given that we don't know the significance of this newly discovered collection of emails, I don't want to create a misleading impression. In trying to strike that balance, in a brief letter and in the middle of an election season, there is significant risk of being misunderstood." We are also aware that the Department of Justice reportedly warned the FBI that its action were not consistent with long-standing practices of the Department.

Unfortunately, Director Comey's letter *has* been misunderstood. It is already being used for political purposes, creating a misleading impression regarding the FBI's intent and actions. We strongly believe that it is incumbent on the FBI and Department of Justice to act without delay to dispel any misleading impressions about the emails that have been newly identified, as well as their importance – or lack thereof – to the previous investigation involving Secretary Clinton.

In light of the timing of Director Comey's letter and the confusion and speculation that has resulted, the American people deserve to know that the FBI and Department of Justice are working around the clock to determine the basic facts about the emails in question. Indeed, based on Director Comey's internal memo to FBI staff, it is not clear whether FBI agents have even obtained or reviewed the emails in question. And based on press reports, it appears possible that a significant number – if not all – of the emails could be duplicates of emails already reviewed by the FBI. Accordingly, no later than Monday, October 31, 2016, we request that you provide us with more detailed information about the investigative steps that are being taken, the number of emails involved, and what is being done to determine how many of the emails are duplicative of those already reviewed by the FBI.

Just ten days before a presidential election, the American people deserve more disclosure without delay regarding the FBI's most recent announcement. Anything less would be irresponsible and a disservice to the American people.

Sincerely,

Thomas R. Carper
United States Senator

Patrick Leahy
United States Senator

Dianne Feinstein
United States Senator

Benjamin L. Cardin
United States Senator