FD-1057 (Rev 5-8-10)

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FEDERAL BUREAU OF INVESTIGATION

Electronic Communication

Title: (U) Protocol regarding Potential Conflicts of Interest **Date:** 04/29/2015

CC: Carl Ghattas
Gregory D Cox
Jennifer A. Leonard
SKULE JOSHUA
W.L. Scott Bean, III

From: WASHINGTON FIELD
WF-CDC
Contact: [redacted] b6 b7C

Approved By: McCABE ANDREW G

Drafted By: [redacted] b6 b7C

Case ID #: 333-WF-235579-E (U) ETHICS SERIAL 128

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DOCUMENT RESTRICTED TO CASE PARTICIPANTS
This document contains information that is restricted to case participants.

Synopsis: (U) Documents protocol to be followed for matters in which the ADIC has a potential conflict of interest due to his wife's State Senate campaign.

Details:

In March 2015, Dr. Jill McCabe announced her candidacy for Virginia State Senate. Dr. McCabe is the wife of Washington Field Office ADIC Andrew McCabe. Prior to Dr. McCabe's official announcement, the ADIC consulted with individuals within WFO and FBIHQ to identify limitations on his participation in her campaign and to identify areas where Dr.

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McCabe's campaign may present potential conflicts of interest for the ADIC in WFO investigations and operations. WFO has a robust public corruption program which seeks to identify, investigate and prosecute individuals and entities involved in public corruption within WFO's area of responsibility, to include the area of northern Virginia Dr. McCabe seeks to represent.

Specifically, on 03/11/2015, ADIC McCabe and A/CDC met with AD Patrick Kelly, Office of Integrity and Compliance, and General Counsel James Baker. AD Kelly and GC Baker reviewed with the ADIC provisions of the Hatch Act and provided specific parameters under which the ADIC may be involved in Dr. McCabe's campaign. The ADIC and A/CDC also addressed with AD Kelly and GC Baker the potential for conflicts of interest that may arise in WFO operations and investigations. A/CDC provided the ADIC with a copy of the Hatch Act as well as relevant portions of the FBI Ethics and Integrity Program Policy Guide for his review and reference.

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With regard to potential conflicts of interest presented by the ADIC's position in the Washington Field Office and the work done by WFO, Criminal Division A/SAC Jennifer Leonard and A/CDC have identified several areas where the ADIC's disassociation would be appropriate. Specifically, all public corruption investigations arising out of or otherwise connected to the Commonwealth of Virginia present potential conflicts, as Dr. McCabe is running for state office and is supported by the Governor of Virginia. Therefore, out of an abundance of caution, the ADIC will be excluded from any involvement in all such cases.

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Additionally, A/SAC Leonard, with A/ASAC SSA and SSA conducted an initial review of pending investigations in the WFO Criminal Division to identify cases that present a potential conflict of interest. These cases have been identified to A/CDC and will be included in the matters in which the ADIC may take no part, either by being briefed or in the decision-making process.

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Title: (U) Protocol regarding Potential Conflicts of Interest
Re: 333-WF-235579-E, 04/29/2015

Recognizing conflicts of interest may arise in any investigative classification, WFO will assess all other matters on a case-by-case basis and adopts the following protocol for review of such cases:

- Prior to opening any investigation that may present an actual or perceived conflict of interest, the matter will first be reviewed by the WFO CDC.
- Upon determination by the CDC that no potential conflict of interest is present, the case may be briefed to the ADIC as necessary, and he may be involved in all matters related to the investigation regularly requiring his review and/or approval.
- Should the CDC determine a potential conflict of interest exists, the case agent and appropriate ASAC and SAC will be notified and the ADIC will be excluded from all aspects of that case to include, but not limited to, briefings, case updates, operations, intelligence, and any matter related to the investigation. All communications in such cases will carry an administrative note stating the matter is restricted per this serial (333-WF-235579-E, serial 128).
- If at any time during the course of an investigation a concern arises as to whether or not an actual or perceived conflict of interest exists, the investigation will be immediately reviewed by the CDC before any further briefing to or other involvement by the ADIC, following the same protocol described above.
- The CDC will maintain a list of cases from which the ADIC is excluded, and may review these cases with the case agent as necessary to determine if the potential conflict continues to exist.

All WFO SACs are included in this communication for situational awareness should any matter arise within their division that presents a potential conflict of interest. In such instances, the same protocol described above will be followed.

This protocol will be reassessed and adjusted as necessary and at the conclusion of Dr. McCabe's campaign in November, 2015.

Title: (U) Protocol regarding Potential Conflicts of Interest
Re: 333-WF-235579-E, 04/29/2015

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KELLEY, PATRICK W. (DO) (FBI)

Client Name (Current FBI Employees): MCCABE, ANDREW G. (DO) (FBI) x

Client Name (Former Employees or Non-FBI Employees):

Last Name, First Name
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CDC Client *

- ○ Yes
- ◉ No

Check "Yes" if this is a call from a CDC on behalf of FO/division employee. Check "No", if not a CDC or a CDC calling on his or her own behalf.

Division or Field Office *: WF

Do not type the full name of the FBI division of field office. Instead type the 2,3,4,5 letter acronym. WF is correct, not Washington Field, of WFO. This help sort the information for our stats reports to the Deputy Director.

Initial Contact Method

- ○ Phone
- ○ Email
- ◉ In person
- ○ Specify your own value:

Initial Contact Date: 3/11/2015

Requested Due Date:

Summary of Request and Advice Provided:

His wife is running for partisian political State office. Reviewed Hatch Act regs and gave him the cite (he is an attorney). Discussed their application--his CDC there; GC joined discussion half-way through. [redacted] Also reviewed disqualification/recusal requirements. He has already put in place filtering arrangements within his office although State falls under jurisdiction of different field office.

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Date Completed: 3/11/2015

Explanation of Delay:

Category *

- ○ Conflicts of Interest
- ○ Financial Disclosure Reports (OGE-278/450)
- ○ Fundraising
- ○ Gifts Between Employees
- ○ Gifts from Domestic and Private Sources
- ○ Gifts from Foreign Governments
- ○ Gifts to the FBI
- ○ Interacting w/ Contractors
- ○ Outside Employment/Activities
- ○ Teaching, Speaking, Writing
- ○ Advice - Post Government Service Employment Restrictions
- ○ Letter - Post Government Service Employment Restrictions
- ◉ Political Activities (Hatch Act)
- ○ Retaliation
- ○ Use of FBI Property
- ○ Use of FBI Time
- ○ Use of Gov't Vehicle
- ○ Use of Position (ltrs of Recommendation/Endorsements)
- ○ WAG requests and approvals
- ○ General Ethics Issue
- ○ Non-Ethics Issue (compliance matter or other topic)

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PGSER Letter Redacted: ☐

Select "yes" if you have provided records keeper with a redacted copy of the letter for the semi-annual report to DOJ. This should be done at the time the final letter is provided to the employee.

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Last modified at 8/24/2015 11:07 AM by [redacted] (DO) (FBI)

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October 24, 2016

Overview of Deputy Director McCabe's Recusal Related To Dr. McCabe's Campaign for Political Office

NOTE TO FBI EXECUTIVES: The purpose of this document is to provide FBI executive management with a factual basis by which to inform discussions with employees or interested parties in the community.

This document is not for distribution, either internally or externally.

Executive Summary

On Monday, October 24, 2016, the Wall Street Journal published a front page story that detailed Deputy Director Andrew McCabe's recusal from matters that may have presented an actual or potential conflict-of-interest while his wife, Dr. Jill McCabe, ran for political office in Virginia.

In the story, a timeline of events draws a comparison between positions held by Andrew McCabe and the FBI's investigation into Secretary Clinton's email server. The timeline misstates when McCabe was promoted to Associate Deputy Director and makes invalid associations between the events.

The story can be found here.

Talking Points

Below is the full statement provided to *The Wall Street Journal*:

"When Jill McCabe first considered running for the state Senate seat, ADIC McCabe consulted with top FBI headquarters and field office ethics officers for guidance, including briefings on the Hatch Act, to prevent against any actual or potential conflict-of-interest, in the event she decided to go forward. When she chose to run, ADIC McCabe and FBI lawyers implemented a system of recusal from all FBI investigative matters involving Virginia politics, a process followed for the remainder of her campaign. During the campaign, he played no role, attended no events, and did not participate in fundraising or support of any kind. Months after the completion of her campaign, then-Associate Deputy Director McCabe was promoted to Deputy, where, in that position, he assumed for the first time, an oversight role in the investigation into Secretary Clinton's emails."

Frequently Asked Questions

Did Andrew McCabe have any oversight of the investigation into Secretary Clinton's email server while his wife was running for political office?

No. The FBI investigation into Secretary Clinton's email server began in July 2015 after a referral was received by the Intelligence Community Inspector General. At that time, Andrew McCabe served as the Assistant Director in Charge of the Washington Field Office and had no oversight of the investigation. Jill McCabe lost the election on Nov. 3, 2015. It was not until he assumed the position of Deputy Director in February 2016 that he had oversight of the investigation, well after her political campaign had concluded.

Did he recuse himself from any matters involving politics in Virginia?

Yes. From the first contemplation that his wife would run for office in Virginia, then-ADIC McCabe sought out and consulted with ethics officers, which included briefings on the Hatch Act. Once Jill McCabe decided to seek office, there was a system of recusal put in place to prevent any real or potential conflicts of interest. This system was adhered to throughout Jill McCabe's campaign for office.

It was not until months after Jill McCabe's campaign had ended that Andrew McCabe first entered a role in which he assumed an oversight role in the investigation into Secretary Clinton's email server. Prior to that point in February 2016, McCabe was not in a position that required a recusal in that investigation as he had no oversight of it.

Did he provide any support to his wife's campaign?

No. Then-ADIC McCabe played no role, attended no events and did not participate in fundraising or support of any kind.

Dr. McCabe announced she planned to run for Virginia state senate in mid March 2015. Earlier that month the New York Times reported Hillary Clinton used a private e-mail server while serving as Secretary of State. In March Clinton also acknowledged using private e-mail. Is it relevant that the existence of Secretary Clinton's email server was reported in the same month that Dr. McCabe announced her candidacy for state senate?

No. The FBI was not conducting an investigation regarding Secretary Clinton in March 2015. Four months later in July 2015 the State Department Inspector General made a referral to the FBI for investigation. The allegation centered on the possibility Clinton had classified e-mail on her personal system. At the time of the referral Mr. McCabe was serving as ADIC at WFO and was not supervising the Clinton investigation.

While at WFO did Mr. McCabe provide assistance to the Clinton investigation?

After the referral was made, FBI Headquarters asked the Washington Field Office for personnel to conduct a special investigation. McCabe was serving as ADIC and provided personnel resources. However, he was not told what the investigation was about. In February 2016 McCabe became Deputy Director and began overseeing the Clinton investigation.

Kelley, Patrick W. (DO) (FBI)

From: Mccabe, Andrew G. (DO) (FBI)
Sent: Tuesday, November 01, 2016 2:00 PM
To: Steinbach, Michael B. (DO) (FBI); Priestap, E. W. (CD) (FBI)
Cc: Baker, James A. (OGC) (FBI); Kelley, Patrick W. (DO) (FBI); [redacted] (OGC) (FBI); Bowdich, David L. (DO) (FBI)
Subject: Mid Year

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Mike & Bill:

As of today I am voluntarily recusing myself from the ongoing Mid Year investigation.

I will continue to respond to congressional requests for historical information as necessary.

Andrew G. McCabe
Deputy Director
Federal Bureau of Investigation

[redacted]

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KELLEY, PATRICK W. (DO) (FBI)

Client Name (Current FBI Employees)	MCCABE, ANDREW G. (DO) (FBI) x
Client Name (Former Employees or Non-FBI Employees)	Last Name, First Name Use for persons with no FBINet email address
CDC Client *	○ Yes ◉ No Check "Yes" if this is a call from a CDC on behalf of FO/division employee Check "No", if not a CDC or a CDC calling on his or her own behalf.
Division or Field Office *	WF Do not type the full name of the FBI division of field office. Instead type the 2,3,4,5 letter acronym. WF is correct, not Washington Field, of WFO. This help sort the information for our stats reports to the Deputy Director.
Initial Contact Method	○ Phone ○ Email ◉ In person ○ Specify your own value:
Initial Contact Date	4/22/2015
Requested Due Date	
Summary of Request and Advice Provided	Disqualification advice. His spouse running for office; we have previously reviewed Hatch Act prohibitions. [redacted] b5 b7E

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[redacted] 10/27/2016

Date Completed: 3/11/2015

Explanation of Delay:

Category *

- ○ Conflicts of Interest
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- ○ WAG requests and approvals
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- ○ Non-Ethics Issue (compliance matter or other topic)

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Select "yes" if you have provided records keeper with a redacted copy of the letter for the semi annual report to DOJ. This should be done at the time the final letter is provided to the employee.

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Initial Contact Method

- ○ Phone
- ○ Email
- ◉ In person
- ○ Specify your own value:

Initial Contact Date 6/3/2016

Requested Due Date

Summary of Request and Advice Provided

Q through assistant who asked re how to memorialize a recusal.

[redacted] b5 b7E

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b7E

Date Completed: 6/3/2016

Explanation of Delay:

Category *:

- (●) Conflicts of Interest
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