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SENATE JUDICIARY COMMITTEE
U.S. SENATE
WASHINGTON, D.C.

INTERVIEW OF: MICHAEL B. STEINBACH

FRIDAY, JUNE 12, 2020
WASHINGTON, D.C.

1 The interview in this matter was held at the
2 Dirksen Senate Office Building, Room SD-226, commencing
3 at 10:06 a.m.

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1 APPEARANCES:

2 Zachary N. Somers, Chief Investigative Counsel
3 (Majority)

4 Arthur Radford Baker, Senior Investigative Counsel
5 (Majority)

6 Sara Zdeb, Senior Counsel (Minority)

7 Christina Calce, Counsel (Minority)

8 Heather Sawyer, Staff Director & Chief Counsel
9 (Minority)

10 [REDACTED], FBI Office of the General Counsel,
11 Assistant General Counsel

12 [REDACTED], FBI Office of the General Counsel,
13 Assistant General Counsel

14 [REDACTED], US DOJ FBI Supervisory Special
15 Agent, Office of Congressional Affairs

16 Joan V. Cain, Court Reporter

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EXAMINATION BY	PAGE
COUNSEL FOR THE MAJORITY:	9, 86, 147
COUNSEL FOR THE MINORITY:	56, 133

EXHIBITS

(No exhibits were marked.)

P R O C E E D I N G S

1
2 Mr. Somers: This is a transcribed interview of
3 Michael Steinbach. Chairman Graham requested this
4 interview as part of an investigation by the Senate
5 Judiciary Committee into matters related to the Justice
6 Department's and the Federal Bureau of Investigation's
7 handling of the Crossfire Hurricane investigation,
8 including the applications for and renewals of Foreign
9 Intelligence Surveillance Act warrant on Carter Page.

10 Will the witness please state his name for the
11 record?

12 The Witness: Michael B. Steinbach.

13 Mr. Somers: On behalf of Chairman Graham, I want to
14 thank you for appearing today, and We appreciate your
15 willingness to appear voluntarily.

16 My name is Zachary Somers. I'm the Majority Chief
17 Investigative Counsel for the Judiciary Committee, and
18 I'll now ask everyone else that's here in the room to
19 introduce themselves for the record.

20 Mr. Baker: Arthur Baker, Senior Investigative
21 Counsel for Senator Graham Majority staff.

22 Ms. Zdeb: Sara Zdeb, Senior Counsel with the Senate
23 Judiciary Minority staff.

24 Ms. Calce: Christina Calce, counsel with the Senate
25 Judiciary Minority staff.

1 Ms. Sawyer. Heather Sawyer, Senator Feinstein's
2 staff --

3 Mr. Somers: That's Heather Sawyer with the Minority
4 staff, for the record.

5 [REDACTED]: [REDACTED], Office of General Counsel
6 FBI.

7 [REDACTED]: [REDACTED], FBI Office of
8 Congressional Affairs.

9 [REDACTED]: [REDACTED], FBI Office of
10 General Counsel.

11 Mr. Somers: The Federal Rules of Civil Procedure do
12 not apply in this setting, but there are some guidelines
13 that are involved that I'd like to go over. Our
14 questions will proceed in rounds. The Majority will ask
15 questions for the first hour, and then the Minority will
16 have an opportunity to ask questions for an equal period
17 of time. We will go back and forth in this manner until
18 there are no more questions and the interview is over.

19 Typically, we take a short break at the end of each
20 hour of questioning, but if you'd like to take a break
21 prior to that, please let us know. As I noted earlier,
22 you're appearing today voluntarily. Accordingly, we
23 anticipate that our questions will receive complete
24 responses. To the extent that you decline to answer a
25 question or if counsel for the FBI instructs you not to

1 answer a question, we will consider whether a subpoena
2 is necessary.

3 As you can see, there's an official reporter taking
4 down everything that is said here in a written record,
5 so we ask that you give verbal responses to all
6 questions.

7 Do you understand that?

8 The Witness: Yes.

9 Mr. Somers: So that the reporter can take down a
10 clear record, it is important that we don't talk over
11 one another or interrupt each other if we can help it.
12 We want you to answer our questions in the most complete
13 and truthful manner possible, so we will take our time.

14 If you have any questions or if you do not
15 understand one of our questions, please let us know. If
16 you honestly don't know the answer to a question or do
17 not remember it, it's best not to guess. Please give us
18 your best recollection, and it's okay to tell us if you
19 learned the information from someone else.

20 If there are things you don't know or can't
21 remember, just say so and please inform us who to the
22 best of your knowledge might be able to provide a more
23 complete response to the question.

24 You should also understand that, although this
25 interview is not under oath, you're required by law to

1 answer questions from Congress truthfully.

2 Do you understand that?

3 The Witness: Yes.

4 Mr. Somers: This also applies to questions posed by
5 Congressional staff in an interview. Do you understand
6 this?

7 The Witness: Yes.

8 Mr. Somers: Witnesses who knowingly provide false
9 testimony can be subject to criminal prosecution for
10 perjury or for making false statements.

11 Do you understand this?

12 The Witness: Yes.

13 Mr. Somers: Is there any reason you're unable to
14 provide truthful answers to today's questions.

15 The Witness: No.

16 Mr. Somers: Finally, we ask that you not speak
17 about what we discuss in this interview today with
18 anyone outside who isn't here in the room in order to
19 preserve the integrity of our investigation. That's the
20 end of my preamble.

21 Do you have any questions before we begin?

22 The Witness: I do not.

23 Mr. Baker: Zach, I would add for the record, as
24 Mr. Steinbach has alluded to, he's here voluntarily, and
25 he's been very cooperative and very easy to work with in

1 arriving at this particular point in the investigation.

2 Mr. Somers: We thank you for your cooperation.

3 EXAMINATION

4 BY MR. SOMERS:

5 Q It's now ten after 10:00. We'll begin our
6 first round of questions.

7 Have you had a chance to read or review the IG
8 Report related to the Carter Page FISA application?

9 A When it came out, I reviewed -- I read the
10 executive summary, and then I had my staff do a name search
11 for my name, and at that time I reviewed my name entry.

12 Q Did you speak with anyone in preparation for
13 today's interview?

14 A I did not know the subject matter. There
15 were several who people know I'm coming down.

16 Q Not the subject matter?

17 A No.

18 Q When did you retire from the FBI?

19 A February 2017. February 24th of 2017.

20 Q And what your position at the time of your
21 retirement?

22 A Executive Assistant Director of the National
23 Security Branch.

24 Q And what were your duties as the EAD for
25 national security?

1 A As the Executive Assistant Director of
2 National Security, I was responsible for four programs:
3 Counterterrorism Division, the Counterintelligence
4 Division, the Weapons of Mass Destruction Directorate,
5 and the Terrorist Screening Center. I provided policy
6 and strategic direction for the Director's Office on
7 those divisions and directorates.

8 Q And in this investigation we're particularly
9 interested in FISA. What was your general role -- not
10 about this specific FISA, but just with FISAs in
11 general?

12 A As the EAD, I didn't have a direct role in
13 the FISA process.

14 Q Okay. So if the field office, for instance,
15 wanted to get a FISA, that's not something that would
16 come through you in any way?

17 A Correct. It would not.

18 Q What if headquarters wanted
19 a -- headquarters, an agent or someone in the National
20 Security Branch wanted a FISA?

21 A FISA followed the chain of command up through
22 the assistant director and to the deputy director. The
23 EAD would not, in general, be a part of the overall
24 process. I would be briefed after the fact at times,
25 but I didn't see a flow of all FISAs coming from

1 national security side of the house.

2 Q So just to make sure I'm clear, if it's
3 counterintelligence FISA, it would go from the
4 AD -- within the National Security Branch, the AD for
5 counterintelligence was the highest rank that the FISA
6 would flow through?

7 A Correct.

8 Q And then it would go from there to the deputy
9 director?

10 A Correct.

11 Q Okay. Besides your role as the EAD, how many
12 FISAs had you worked on in the period prior to becoming
13 the EAD?

14 A I can't guess. I was in counterterrorism at
15 one point in the past from 2004 on and off until I
16 became EAD. As the AD in counterterrorism, I was a part
17 of a lot of FISAs. I couldn't guess. Many.

18 Q Many. And were you ever the case agent on a
19 FISA?

20 A I was not.

21 Q Never the case agent. So you were -- were
22 you an SSA on a FISA?

23 A No.

24 Q You ever signed a Woods Form?

25 A No.

1 Q Are you familiar with the Woods Procedures?

2 A Yes.

3 Q Can you speak generally as to what the Woods
4 Procedures are?

5 A Sure. In general, the Woods Process is
6 designed to ensure that every part of the affidavit is
7 factually grounded, and a Woods addendum or a document
8 that accompanies the FISA is designed to be that burden
9 of proof for the actual statement in a FISA application.

10 Q Where'd you get your knowledge of the Woods
11 Procedures?

12 A From 22 years in the FBI working
13 counterterrorism.

14 Q I'm asking was there specific --

15 A I'm sure I've had training. I've had
16 training on FISAs over the years. I went from an agent
17 in criminal programs, and after 9/11 I moved over to
18 counterterrorism. From that point on, I was immersed in
19 all counterterrorism processes on the national security
20 side of the House, to include national security process
21 such as FISAs, so I couldn't tell you where I learned
22 about the Woods process or procedures.

23 Q Does the National Security Branch do any
24 training or advisories out to the field on the Woods
25 Procedures?

1 A They do training and audits in
2 conjunction -- or did at the time I'd say in conjunction
3 with DOJ.

4 BY MR. BAKER:

5 Q Would you maybe give just a brief thumbnail
6 sketch of your rise through the Bureau? Because you've
7 got a lot of criminal experience too, I think, or some
8 criminal experience. You're not strictly a national
9 security investigator from your time right out of
10 Quantico; is that correct?

11 A Correct.

12 Q If you could just give a thumbnail sketch of
13 what your work history is and your promotional climb, I
14 think that would help for the record.

15 A Sure. So I graduated from the FBI Academy in
16 the summer of 1995. I was assigned to the Chicago Field
17 Office, where I worked mostly criminal -- well, all
18 criminal matters. I started off on a fugitive task
19 force -- for about two years on a fugitive task force
20 and then moved over to a violent crime task force and
21 back and forth between essentially fugitive task force
22 and violent crime task force, responsible for fugitive
23 investigations, bank robbers, kidnappings, extortions as
24 part of the task force environments.

25 After 2011 I did a temporary duty assignment to New

1 Delhi, India, which was my real first exposure to the
2 counterterrorism side of the house.

3 When I returned from that 60-odd day assignment, at
4 some point I applied for a supervisor job in
5 counterterrorism. They were setting up a new unit, a
6 Military Liaison Detainee Unit, and they were looking
7 for folks -- FBI agents who had military background. So
8 although I didn't have a counterterrorism background,
9 they asked me to come work in MLDU as a supervisor as a
10 result of my military background.

11 I worked on the Guantanamo Bay program for a while,
12 deployed to Afghanistan, became the Afghanistan SSA
13 program manager and then ultimately acting unit chief of
14 MLDU.

15 At that point, for about two years, I was
16 transferred to Tel Aviv, where I was the -- first the
17 ALAT, the Assistant Legal Attaché, then the Legal
18 Attaché to Tel Aviv responsible for Israel and
19 Palestinian authorities. [REDACTED]

[REDACTED]
[REDACTED], so I spent a significant
22 amount of time on the national security side of the
23 house there.

24 When I returned from Israel, I spent about a year at
25 the Washington Field Office back as a supervisor of a

1 violent crime and fugitive task force.

2 After a year they transferred me. I took a
3 promotion as an Assistant Section Chief in
4 Counterterrorism in the International Terrorism
5 Operation Section in charge of ITOS ■, which is
6 international terrorism in the United States.

7 After that, for approximately year and a half, I
8 took a promotion to be the lead FBI agent to the CIA's
9 Counterterrorism Center, CTC, a very short stint there.

10 And then I was pulled back and became the special
11 assistant to Tom Harrington, who was the Associate
12 Deputy Director at the time, had that position for a
13 couple of years.

14 Then I was sent out to be the SAC of the
15 Jacksonville Field Office. After four months as the SAC
16 of Jacksonville, they asked me to go down to Miami, at
17 first temporarily, then permanently, where I was the SAC
18 for about -- the special agent in charge for about a
19 year and a half.

20 Upon completing that assignment, I came back to FBI
21 headquarters as the Deputy Assistant Director of
22 Counterterrorism. I held that position for about six
23 months, and on the promotion of the current AD, I became
24 the Assistant Director of Counterterrorism. I held that
25 position for about two years, I suspect, and then from

1 there became the Executive Assistant Director of
2 National Security.

3 Q When you were the SAC in Jacksonville or
4 Miami, were there FISAs worked out of those field
5 offices?

6 A Yes, both field offices. [REDACTED]

7 [REDACTED] [REDACTED]
8 [REDACTED] [REDACTED]
9 [REDACTED]
10 [REDACTED] [REDACTED] [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]

14 Q What would the SAC's role be in the FISA
15 process?

16 A It was a direct role in reviewing FISAs
17 coming up.

18 Q And, just briefly, your military experience?

19 A So I graduated from the Naval Academy in
20 1988, and I was a naval aviator flying P3s for just
21 under seven years. Assignments on the west coast and
22 the east coast, and I resigned from the Navy. My last
23 ten weeks I was approached by the FBI.

24 Q So in your role as SAC in the two field
25 offices, you would have had someone in the office that

1 would primarily be responsible for providing you with
2 legal advice; is that correct?

3 A Correct.

4 Q And that person's title is?

5 A Was the CDC, Chief Division Counsel. In a
6 large office like Miami, there's probably at least one
7 or, in the case of Miami, two associate Chief Division
8 Counsels.

9 Q Would it be fair to say that that's a good
10 probability of where you learned about Woods Procedures
11 and whatnot as SAC interacting with the CDC?

12 A I'd say I probably learned about that prior
13 with my experience on ITOS █. As the Assistant Section
14 Chief of ITOS █, we had a program managing thousands of
15 FBI field office investigations in counterterrorism, so
16 lots and lots of FISAs.

17 If you'll recall 2009, 2010 time frame, when I was
18 in ITOS 1, there was a fairly significant run-up in
19 counterterrorism investigations. █
20 █
21 █

22 There was a number of emergency and routine FISAs that
23 were authorized. I'd say probably ultimately my
24 practical experience in FISAs was in counterterrorism
25 during my ITOS █ time.

1 Q Okay. And then managerial experience with
2 FISAs as SAC?

3 A That would be -- yeah. Managerial both in
4 ITOS ■ and as SAC.

5 Q And your role as SAC in FISA was more
6 involved then, and as you indicated, EAD really not at
7 all?

8 A Yeah, to be honest with you, I don't recall
9 exactly what sign-off I provided to the FISA -- well,
10 that's not true. There was a FISAM system that, as the
11 SAC, I would go in and pull it up, review, and if I was
12 satisfied with that, I would sign off on it. It was ■
13 ■ designed to provide a process for all
14 FISAs from initiation through the process.

15 Q So that system would make sure that any
16 person that had a role in approving the
17 FISA would -- that would shepherd the approvals along to
18 the people that needed to see it?

19 A Correct.

20 Q At then at some point, does it transmit from
21 the field office to FBI headquarters to start the
22 approval process in D.C.?

23 A Yeah. It's more of a blended approach. So
24 when a case agent -- because the affi for a FISA is
25 headquarters, not the field, so the initiation of the

1 FISA of course is in the investigation in the field,
2 which you immediately need to interact with either ITOS
3 ■, which I was the assistant section chief of, or ITOS
4 ■, to work with that headquarters supervisor and the FBI
5 legal entity, OGC for National Security, who would then
6 interact with DOJ's at the time it was National Security
7 Branch, and you would start to work that FISA process
8 through.

9 As Assistant Section Chief of ITOS ■ I think on a
10 weekly basis, maybe every other week, we would have a
11 meeting with DOJ National Security Branch, and I think
12 ILA at the time. They would come off site and they
13 would sit down and review all of the FISAs pending/up
14 for renewal as a routine process.

15 But back to your original point, the FISA initiation
16 process I recall more of a dual-field headquarters
17 blended function as it moved its way up, so by the time
18 the SAC saw it in FISAs, it already had touched bases
19 with both the field and headquarters.

20 BY MR. SOMERS:

21 Q You said review. What would review consist
22 of?

23 A From my perspective?

24 Q Yes.

25 A As the SAC, I'd review --

1 Q I'm sorry. As the ITOS ■, as assistant
2 section chief.

3 A Okay. As the assistant section chief. So
4 we'd go to an office and it was really about we want to
5 ask you to look at the documentation. DOJ National
6 Security Branch lawyers would be there talking about,
7 hey, what's coming up? What's due? There's obviously a
8 routine process for a FISA versus an expedited. There
9 are three separate functions. So they'd talk about
10 whether or not they felt they had predicate for an
11 emergency versus a routine FISA. They would talk about
12 the investigation.

13 It was a back-and-forth conversation about the flow
14 of cases and particularly where National Security Branch
15 of DOJ needed to be involved in that.

16 Q Who's in the room for a meeting like that?
17 Is the actual case agent on --

18 A No. It's generally the section chief or -- I
19 think at the time -- this is back in 2009. At the time,
20 it was Section Chief, Assistant Section Chiefs in either
21 ITOS ■ or ITOS ■, perhaps the unit chiefs or SSAs, and
22 perhaps even an intel analyst if it was their case.

23 It included National Security Branch lawyers who
24 were assigned off site to ITOS, and then there were a
25 number of DOJ unit chief to supervisory positions. At

1 the time there were two branches. There's a National
2 Security Branch -- well, within the National Security
3 Branch, there was the actual arm that actually did the
4 FISA work in the field. There was kind of the review
5 IO. They kind of did the work with FISC, or they were
6 generally present. Half dozen to a dozen people.

7 Q But let's say you're discussing a FISA on
8 John Smith, who, like, initiates the discussion and says
9 this is the facts of the case in that meeting?

10 A It was a casual meeting. There was no -- we
11 had topics we wanted to address. They had topics they
12 wanted to address. There was no I would say standard
13 template. Often they would come in and say, okay, this
14 is what we've got this week. We've got a FISA
15 application coming in on, you know, John Smith. We have
16 a renewal on Mike Smith, and, you know, we have a
17 concern that there's not enough there and this is what
18 we need to happen.

19 It was a back-and-forth conversation at headquarters
20 level. I will -- let me make sure I caveat this. I'm
21 talking on the counterterrorism side. I don't know if
22 there was an equivalent on the counterintelligence side.

23 Q In a meeting like that, was it also
24 discussed, hey, we shouldn't get a renewal on a FISA?

25 A Sure.

1 Q And what would be factors that would come
2 into play to get a renewal on it?

3 A Lack of predicate. Lack of predicate with
4 proceeding with the investigation.

5 Q Is that because the FISA ran dry or it never
6 produced anything?

7 A It could be all those things. I mean, you
8 know, again, did about -- did this for two years, dozens
9 on a monthly basis. There's all kinds of reasons why a
10 FISA's no longer -- it's run its course, not able to
11 continue to produce the required information to justify
12 going back to the court for renewal. Perhaps the DOJ
13 said, hey, look, we need this much more. Bring back the
14 case to the field and ask for more. They need to do X,
15 Y, Z.

16 It was an informal meeting to kind of stay abreast
17 of the process.

18 Q On average, how many FISAs would be discussed
19 in that meeting?

20 A [REDACTED].

21 Q A handful?

22 A A handful on a weekly basis.

23 Q And anyone who attended these meetings, would
24 they look at the Woods File?

25 A Sure. The headquarters supervisor would have

1 been part of the Woods File process. The DOJ attorneys
2 would have been involved in the Woods File process.

3 Q So have you ever reviewed those files?

4 A I have. I will say yes, but I would say not
5 in a -- just kind of review process. I don't have a lot
6 of -- I wouldn't say I have a lot of experience on the
7 Woods documents.

8 Q But not as part of the audit. You're saying
9 you reviewed it as a FISA you were looking at?

10 A Correct.

11 BY MR. BAKER:

12 Q Separate and apart from any reviews that are
13 being done before an application goes to FISC, is there
14 a process in the Bureau where a first-line supervisor
15 regularly on a scheduled basis does a file review of
16 cases that are on his or her squad?

17 A Yes.

18 Q And would that include reviewing subfiles,
19 like Woods Files, for accuracy, compliance?

20 A I don't know how to answer that. It
21 should -- intuitively a file should include all files to
22 include subfiles, classified, nonclassified in the Woods
23 File. I don't know that I can speak to how accurately
24 in the field the supervisor actually pulled in the Woods
25 File and reviewed it. That I couldn't comment on. We

1 had a process in place where DOJ would audit field
2 offices periodically on Woods Files.

3 Q But this file review process in general,
4 that's when the supervisor maybe meets with an agent and
5 discusses caseload milestones for the next file review,
6 sort of an evaluation of where it's at, and then is
7 there some sort of reporting of that file review by the
8 SSA up to his next level -- I assume the special agent
9 in charge -- just the fact that file reviews were done?

10 I'm guessing the ASAC is kind of -- if he keeps
11 seeing on the little summations of file reviews that
12 we're working toward a FISA, we're working towards a
13 Title III, but he keeps seeing that, he might ask now,
14 well, what's the holdup on it? Is there sort of a
15 give-and-take between the SSA and the ASAC?

16 A There could be. I think it depends on how
17 big the field office is. Generally, the supervisor
18 conducts periodic file reviews where he reviews, just as
19 you said, the case file, how the case is progressing,
20 provides some guidance in terms of investigative
21 assistance, what needs to be done, if there are
22 any -- if the case has been open as a PI too long
23 versus, well, we're not getting -- you know, we need to
24 close this case. That would be documented in the file
25 review and put in the agent's file.

1 Whether the ASAC reviewed every single supervisor's
2 file, I think that's probably not necessarily a
3 hard-and-fast rule, perhaps a procedure or a technique
4 that some ASACs would use. I would be surprised except
5 maybe in very, very small offices that that information
6 passed the ASAC to the SAC.

7 Q And then I think you said or alluded to, in
8 addition to whatever review the SSA is doing, at least
9 in the case of FISAs and national security-related
10 matters, but specifically FISA, is there also audits or
11 reviews being done by attorneys from the FBI's General
12 Counsel Office along with --

13 A Yes.

14 Q -- counterparts from DOJ?

15 A The FISA process -- the approval and review
16 process for FISAs does not sit alone with the field or
17 the investigative entity. There's quite -- and probably
18 more so than any other investigative tool that I can
19 think of, the FISA process is very much a headquarters
20 field collaboration.

21 A case agent could not run through a FISA without
22 support of headquarters. For one, like I said the
23 supervisor at headquarters is the actual affiant, not
24 the field, so a supervisor at headquarters is not going,
25 of course, go and stand before the FISC and apply for a

1 FISA application.

2 BY MR. SOMERS:

3 Q What's your understanding of why that is, why
4 the headquarters does the affidavit on FISAs?

5 BY MR. BAKER:

6 Q And that's different from a Title III on the
7 criminal side, correct?

8 A Correct. So I would say there is -- the FISC
9 itself, as we're all aware, is a different entity. You
10 are not following normal criminal procedure, and so I
11 think there's a level of caution and review around
12 national security procedures that involve use of tools
13 such as search and seizure or other processes that would
14 normally go through the checks and balances of the
15 criminal code, right.

16 So the national security process through the FISC
17 court has always had a stronger oversight, the concern
18 being that there needs to be strong oversight. DOJ's
19 opinion was always -- had always been when I was there
20 that we want to make sure that every FISA application we
21 put forward is ready to go. There was a lot of
22 back-and-forth before it got to the judge, the FISC
23 court judge, before that.

24 DOJ was very concerned back in those days to make
25 sure that they had a strong 100 percent record on FISA

1 applications. They spent a lot of time reviewing and
2 prepping the application and evidence before it went to
3 the court, and often they would work with the clerks in
4 the FISC to ensure that they felt that it satisfied the
5 burden of proof, so to speak, for that application
6 before it went to the judge. There was a lot of
7 back-and-forth.

8 And I'm speculating now, but my thought process is
9 because of the nature of national security
10 investigations, how important they are, the
11 intrusiveness of the techniques, we need to make sure
12 that we have those processes down. That's why there's a
13 level of involvement at headquarters and at DOJ that you
14 don't see in the criminal side of the house.

15 BY MR. SOMERS:

16 Q Isn't there any concern, though, that the
17 person that's actually signing the FISA then is the one
18 that's most familiar with the facts? Do you make that
19 switch off from the field to headquarters for actually
20 signing the document?

21 A So all steps of a national security
22 investigation -- in criminal investigations -- when I
23 was working criminal cases, I could pretty much open up
24 a case on my own, and all of the investigative steps
25 resided with me and maybe my supervisor until I then

1 went and sought some type of application for search or
2 some other process.

3 On the national security side of the house, just
4 about every step along the way in the investigative
5 process involves headquarters, and that's by design. So
6 when a case is initiated -- a significant national
7 security case is initiated in the field, the
8 headquarters SSA is aware of it and monitors it. There
9 are steps that require a first approval.

10 So I would say that a headquarters supervisor on
11 counterterrorism and counterintelligence investigations
12 is just as familiar with the evidence, what's going on
13 in the investigation. He or she may not have the
14 details of how information was obtained, but in terms of
15 evidence gathered, headquarter supervisors have intimate
16 knowledge of national security investigations.

17 Q What do you mean by the evidence gathering?
18 You mean what's actually in the application or the
19 actual evidence?

20 A I'm talking about -- I want to use the word
21 "evidence." I'll keep evidence for criminal side of the
22 house. I'll look at it as they're all stated as all
23 intelligence gathered in a national security
24 investigation is pushed through headquarters. So from
25 the inception of the investigation through conclusion,

1 all intelligence gathered in a national security
2 investigation doesn't reside just in the field as it
3 would in a criminal investigation. Headquarters is
4 intimately familiar with that.

5 For one reason, IIRs, or Intelligence Information
6 Sharing Products, that information is pushed up and
7 pushed out to the intel community very robustly. So a
8 headquarters supervisor in national security is very
9 aware of the intelligence/evidence that's in a national
10 security investigation.

11 Q So does the headquarters supervisor -- is
12 that the SSA that signs the Woods Form?

13 A Yes.

14 Q And so they review the Woods File?

15 A Yes. I would say often they are helping to
16 draft those files.

17 Q The Woods File, is that an electronic
18 document, or is it a paper document?

19 A It's on the electronic system. It's a Word
20 document or something similar to that, as far as I know.

21 BY MR. BAKER:

22 Q Would the headquarter supervisor also be
23 aware, monitoring, making sure the field case agent is
24 aware of intelligence information, anything related to
25 that FISA that is in other field offices?

1 A Yes. The idea behind the national security
2 investigative process and, you know, as a result of some
3 of the lessons learned from 9/11, was to prevent
4 stovepiping of intelligence information. So the reason
5 headquarters is so involved, they are the conduit to the
6 other agencies. So the robust sharing
7 of information -- we have to make sure that if a field
8 office in Los Angeles collects information, it doesn't
9 sit in the case file of Los Angeles.

10 So the headquarters supervisor and the intelligence
11 analysts that are assigned to that work very closely
12 with field, understanding what intelligence is there,
13 and really providing that broader picture, right. If
14 you look at the case agent and the team at the field
15 level, they're kind of focused down singularly on that
16 case.

17 Headquarters is supposed to provide that overarching
18 understanding, not just the case, but how it interacts
19 and relates to intelligence more globally.

20 Q So you had mentioned earlier that as this
21 FISA application/FISA package makes its way through
22 FISAMS and it may get, for lack of a better term, kicked
23 back at some point for something to be beefed up or
24 something to be more clarified, that headquarter SSA it
25 sounds like would be the one most ideal to know where in

1 the field something might reside that would be
2 responsive to whatever is deficient in the FISA.

3 A That's a very vague question. I think yes in
4 general. The headquarters supervisor ideally -- and I'm
5 speaking in general. The headquarters supervisor
6 overseeing a field office investigation, whether it's
7 counterterrorism or counterintelligence, should have
8 strong working knowledge of the investigations in his or
9 her responsibility, should understand intelligence, and
10 there should be robust conversation between the case
11 agent and headquarters supervisor on the national
12 security side of the house to ensure that both are in
13 sync with next steps.

14 There were times when the field wanted to do X; we
15 wanted to do Y, or they wanted to do X, and we were
16 like, no. I know that's important from a case
17 perspective. From an overall intelligence perspective,
18 it's not appropriate. So my point being that
19 headquarters and field should be in sync on all national
20 security investigative processes to include FISA
21 applications and, therefore, the Woods subcomponent of
22 that.

23 Q I think I heard you correctly. You said
24 something along the lines that one of the reasons that
25 headquarters is involved is to be able to run, at least

1 to some extent, the information by the rest of the
2 intelligence community on FISA?

3 A Not specific to FISA, so I would say
4 that -- so, I mean, ideally the way it's set up,
5 intelligence should be available broadly, right. We've
6 developed systems in CTC -- I'm speaking on the
7 counterterrorism side, which is where the bulk of my
8 background is.

9 On the counterterrorism side, there are robust
10 processes in place. There are Wikipedia-like systems
11 that allow for robust sharing and searching of
12 information. That being said, at the field level their

13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED] They should have
18 a broader level of experience in that subject to help
19 guide the field. That's the kind of relationship.

20 On the counterintelligence side of the house, it's
21 somewhat similar, but also recognizing that there are
22 probably more -- because of the sensitive nature of some
23 counterintelligence investigations, there are probably
24 more walls than on the counterterrorism side.

25 Q Could there be a case where someone from

1 headquarters bounced something off from another
2 intelligence community component and they'd say you're
3 way off base on where you're going with this FISA or
4 something like that?

5 A So probably -- I don't know about way off
6 base, but all the time we bounce stuff off. I mean,
7 CIA, NSA, FBI, DIA, NCTC, they regularly disagree on
8 matters of intelligence. That's the tricky thing about
9 intelligence. You get a piece of information, and then
10 you're required to make some subjective decisioning
11 based on that piece of information.

12 There are lots and lots of robust conversations.

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 Q So if you had a really big case, though, of
17 something -- or a really big investigation, that's
18 something you might want to bounce off CIA or NSA in
19 terms of, you know, what you're looking at, what you're
20 seeing, what are they seeing in this area?

21 A I don't think -- to use your phrase "bounce
22 off" I think misrepresents the process. That would
23 assume that it's not there already. [REDACTED]

24 [REDACTED] [REDACTED]

25 [REDACTED] [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED] [REDACTED]
4 [REDACTED] [REDACTED]
5 [REDACTED] I was the head FBI agent at
6 counterterrorism. I reported to the assistant director,
7 so as the assistant director, [REDACTED]
8 [REDACTED]

9 So to say bounced off would suggest that the
10 information is not there. That information sits there
11 all the time. [REDACTED]

12 [REDACTED]
13 [REDACTED] [REDACTED]
14 [REDACTED] [REDACTED]
15 [REDACTED] [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 Q And would you do any name checks? Like, for
20 instance in this case, Carter Page has some relationship
21 with I guess I would say a government agency, but not
22 speaking to Carter Page specifically, but you want to
23 get a FISA on a John Smith. Is that something you'd try
24 and check out? Hey, is this guy actually, you know,
25 some deep cover agent for the CIA?

1 A Sure.

2 Q Is that part of the process?

3 A Part of the process in any investigative
4 measure is to identify your subjects and then learn
5 about those subjects. That includes checking other law
6 enforcement intelligence community databases to see if
7 there's any association or interaction to include work
8 on this.

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED] [REDACTED]
13 [REDACTED] [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 BY MR. BAKER:

18 Q Would they tell you in that case there is a
19 source, or would they tell you we have no information to
20 your request?

21 A I don't know if I could speculate. I think
22 it would be an individual situation. I can't recall. [REDACTED]

23 [REDACTED]
24 [REDACTED]
25 [REDACTED] [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]

5 Q So how it's handled might different differ
6 from --

7 A It's very -- I would say it's very
8 individual. And there's a process in place that should
9 be followed in general, but there are, of course,
10 exceptions to that process that unique circumstances may
11 dictate following more discussion.

12 BY MR. SOMERS:

13 Q To get more specifically to Crossfire
14 Hurricane, when did you become aware that the FBI wanted
15 to open the investigation that eventually became
16 Crossfire Hurricane?

17 A So that's not that straightforward of a
18 question, because there was a number of -- I think
19 there's a -- and I should probably caveat this from the
20 start that a lot of what I know today -- it's been three
21 years since I retired. It's been about four, four and a
22 half years since I was involved in many of the topics
23 regarding Crossfire Hurricane.

24 Fortunately, or unfortunately, there's been such a
25 blitz in the media; there's been such a large amount of

1 noise that I have a hard time at times distinguishing,
2 if somebody asks me a specific question, whether I knew
3 that at the time or I've learned that from the onslaught
4 in the media. So I'll try to tell you going forward I
5 know for a fact that this is something I knew prior or
6 if I can't recall how I knew it.

7 But when you talk about Crossfire Hurricane, the way
8 I recall it and what I think the media has somewhat
9 mistaken is there was a day when there was a switch that
10 was flipped on a Russian investigation. That's not how
11 it happened. There was a break-in, so to speak, in
12 terms of on the cyber side that occurred into a number
13 of places, to include the DNC. As that cyber-based
14 investigation kind of moved forward, there was evidence
15 that there were Russian actors behind it. That
16 investigation kind of moved forward.

17 There's always been long-standing investigative
18 interest and intelligence collection effort on foreign
19 influence efforts, all the countries you would suspect.
20 Those efforts were ongoing.

21 Then at some point, evidence was collected or
22 intelligence was collected -- I should make sure I use
23 the correct term. Intelligence was collected that
24 started to formulate that certain people associated with
25 the campaign may have inappropriate contact or

1 concerning contact with individuals. That's the
2 formulation of Crossfire Hurricane.

3 Now, in terms of time frame as to when specifically
4 the name "Crossfire Hurricane" and the form, best I can
5 recall, was summer timeframe, but that's --

6 Q So the investigation was formally opened on
7 July 31st of 2016. I guess what I'm really trying to
8 get at is what did you know before July 31st of 2016
9 about, hey, we want to open this investigation. I'm
10 trying to see when you were kind of looped in.

11 A So, again, Zach, there was a lot of
12 information going on about that foreign nation's efforts
13 on the cyber side, on the influence side. I don't know
14 that -- I can't recall that I was briefed specifically
15 on individuals prior to Crossfire Hurricane. I'm sure
16 at some point -- in general, the way the process worked
17 was at the morning directors' meeting, which Director
18 Comey held every morning at 8 o'clock or so, at the
19 conclusion of that general meeting, a small group stayed
20 behind to talk about more sensitive matters. We were
21 being briefed on, from the time I was the EAD, on a
22 number of sensitive matters in that forum, to include
23 concerns about individuals associated with the
24 presidential campaign.

25 At some point, I was briefed that there were

1 individuals involved. I don't recall how far in advance
2 of the July 31st opening, as you say, of the Crossfire
3 Hurricane investigation, but at some point, I was given
4 information. I just don't remember when.

5 Q Do you know who initially briefed you on
6 this, gave you information?

7 A I don't know who, but it would have been one
8 of three people.

9 Q Who are those three people?

10 A It would have been the AD Pete Strzok, the
11 DAD -- I'm sorry.

12 The AD Bill Priestap, the DAD Pete Strzok, or
13 Jonathan Moffa, who was the section chief over intel.
14 They were generally the ones that would come in and
15 brief the director, the deputy director, and myself and
16 others on those activities. And it would have been
17 likely, to be honest with you, that prior to that
18 morning brief Bill and Pete or just Bill would have come
19 into my office and said, hey, we've got something going.
20 This is what we're going to do.

21 I don't know if that happened, but that was often
22 kind of the flow of information.

23 Q And did you know they were going to, like, I
24 guess formally open Crossfire Hurricane on the 31st?

25 A I don't know that --

1 Q Not the date.

2 A Yeah. Yeah. I think that to your point, we
3 had talked about opening investigations on those
4 individuals I believe in that same forum in the morning,
5 so I want to say yes, but I can't be 100 percent sure.

6 Q So there's an electronic communication that
7 formally opens the case. You were in the approval chain
8 for like actually -- whatever -- entering it, signing
9 off on or approving that electronic communication?

10 A The EAD wouldn't be in the approval chain for
11 a case opening.

12 Q Do you know who would have been in the
13 approval chain for that?

14 A There's no -- if I recall, there's no set
15 standard in terms of who's in the approval. Certain
16 investigations or certain investigative techniques
17 require certain approval authorities, and so in terms of
18 the opening -- you say opening of a case?

19 Q Yes.

20 A The opening of a counterintelligence
21 investigation I think just requires -- it's a PI, a
22 preliminary investigation. It requires I think just
23 supervisory approval.

24 Q So SSA?

25 A SSA.

1 Q Could you disapprove the opening of Crossfire
2 Hurricane?

3 A Sure. A number of investigations are opened
4 up in the field I don't see -- I don't see any of those
5 opening statements or those opening electronic
6 communications.

7 Q But you were briefed on it beforehand. So
8 I'm not saying -- I'm just asking you technically could
9 have said, no, you can't open --

10 A Sure. I don't know -- it probably would have
11 required a little more than me just unilaterally saying,
12 no, the director's briefed on it, deputy director's
13 briefed on it, but probably have to have more than just
14 a no on my account. I mean, as the assistant director,
15 probably more appropriately that's a political position
16 where if you had serious concerns about a case that was
17 open in the field, that's probably the level where it
18 would be -- you would veto that, so to speak.

19 I don't recall ever -- as an EAD ever being involved
20 in a decision to open or close a case at that level. I
21 do recall having that decision discussion with the field
22 as an AD but not as an EAD.

23 Q So what was your understanding of what was
24 being investigated? What's the goal here?

25 A Of Crossfire Hurricane?

1 Q Yes, of Crossfire.

2 A So as I understand it, there were a number of
3 individuals that had contacts with individuals who were
4 connected to a foreign government.

5 Q And what -- so -- okay. So the contacts with
6 a foreign government, what are you going to investigate?
7 Whether they actually have contacts? What they're doing
8 with those contacts?

9 A Sure. Yeah. If tomorrow you go out and meet
10 with a Russian contact, we're going to open a
11 counterintelligence investigation on you to determine
12 what the relationship is. Is it just having a cup of
13 coffee, or is there something more to it? That's the
14 nature of counterintelligence investigations. That's
15 how you develop a source.

16 So if we see individuals having contact or
17 conducting suspicious activity with known individuals
18 that are known intelligence officers or associated with
19 that, that's the predicate. The predicate for a
20 preliminary investigation is very low by design.

21 Q What was your understanding of who George
22 Papadopoulos was? He's the initial name mentioned in
23 the July 31st electronic communication.

24 A Yeah, I don't -- I don't -- I can't give you
25 any details on what I knew about George Papadopoulos.

1 I'm not even sure I can walk you through, but I
2 believe -- no, I can't.

3 Q Same answer for Carter Page?

4 A Yeah. I mean, the names and the associations
5 are there, but to actually walk you through information
6 associated with each individual, I can't tell you.

7 Q But you definitely understood they were
8 associated with Trump in some way?

9 A Sure.

10 Q So, you know, you talked about how you
11 initially learned about it. How were you briefed/talked
12 to about it going forward throughout the investigation?

13 A In a similar manner. So periodic updates
14 generally either privately from Bill Priestap, who's my
15 direct report as the assistant director, or perhaps Bill
16 with Pete. Probably even more frequently at the morning
17 skinny-down meeting, so to speak, with Director Comey.
18 Skinny-down meeting, again, was a larger meeting. Then
19 most folks would be asked to leave except for the
20 director, the deputy director, general counsel, the
21 director's chief of staff, myself, and a few others.

22 Q I'm just looking at a quote from the IG's
23 Report here. It says, "Priestap said he'd briefed
24 Steinbach nearly every day on the case and provided
25 Comey or McCabe with updates on an as-needed basis."

1 So I'm just trying to -- I was looking at the first
2 clause there, "Priestap said he'd briefed Steinbach
3 nearly every day on the case." What did that consist
4 of? Was that just you and Priestap?

5 A Sure. I'm not going to disagree with Bill's
6 assertion. So Bill would talk to me on an ad hoc basis,
7 sometimes coming into my office right after morning
8 briefings. Every afternoon I had a closeout briefing
9 with my AD, including Bill, as appropriate, same thing.
10 Other people would be in my office, and Bill would brief
11 me on it. So every day? I'll sign off on that.

12 Q Okay. And what did these briefings consist
13 of? How specific are we talking about here?

14 A Not specific. Just general updates on where
15 we were at.

16 Q Were investigative steps discussed at these
17 briefings?

18 A It could be.

19 Q So, for instance, were you told ahead of time
20 that, hey, we're going to have to run a confidential
21 human source at George Papadopoulos or Carter Page?

22 A I may have been.

23 Q But you can't recall?

24 A I can't recall, no.

25 Q Were you told before a FISA, hey, we're going

1 to go seek a FISA on Carter Page?

2 A Yeah, I may have been. Neither of those
3 investigative techniques were alarming, particularly
4 with confidential human sources. That's one of the
5 first steps you do in an investigative process. You try
6 to build up a network of informants to work against your
7 subject.

8 Q Why?

9 A Why?

10 Q Yeah.

11 A Because when you look at developing
12 intelligence or evidence on the criminal side, covertly
13 or quietly watching a subject only gets you so much.
14 Records checks only get you so much. At some point, you
15 have to take increasing levels of investigative steps
16 and more intrusive steps. In the investigative
17 guidelines, it -- FBI agents kind of views a
18 confidential human source as one of the basic levels to
19 have somebody bump into your subject to learn what that
20 person's saying or thinking. So that's a pretty
21 straightforward step for an FBI agent.

22 Q Is it generally a reliable source of
23 information?

24 A Absolutely not.

25 Q Do you generally think that the source is

1 going to be truthful, honest, a little bit more open?

2 Is that why you run a confidential human source?

3 A Of course you do. The sources are not going
4 to be truthful. I've never had a source ever tell me
5 the truth completely. Even a source in almost all cases
6 is doing it for some ulterior motive: Get himself out
7 of a jam, for money.

8 Q I'm sorry. I think I probably misstated my
9 question. Let's say that you take the step of having a
10 confidential human source wear a wire to record -- or in
11 some means record the conversation between the
12 confidential human source and the subject target,
13 whatever we want to call them.

14 Do you generally try and record those conversations
15 because those conversations -- the evidence gained in
16 those conversations is reliable?

17 A It's -- well, it's good for a number of
18 reasons. I mean, certainly, although you want to trust
19 your source, and no smart agent does, you want to get
20 the information clear. From an evidentiary perspective,
21 of course having a recorded conversation is much more
22 powerful than just a source with a maybe sordid
23 background telling you.

24 So there's a number of reasons you may want to use
25 that information and then go back to the subject and

1 play it to him to help convince him to cooperate. So I
2 would say the introduction of a confidential human
3 source into an investigation is an initial step, a more
4 refined step, but then have that source conduct tasks to
5 include wearing a wire, depending on the circumstances.

6 Q Were you briefed at all on results of the
7 wearing of wires to -- or I don't know if it was a wire,
8 but however George Papadopoulos was recorded by
9 confidential human sources? Were you briefed on the
10 results of those recordings?

11 A I don't recall.

12 Q Would it surprise you that the IG Report
13 indicates that Papadopoulos denied that he had any
14 involvement? Were you ever briefed on that?

15 A So if I -- I'm going to caveat this with that
16 I'm not a hundred percent clear, but I do recall one of
17 the subjects, some of the sources we bumped up we got
18 then no useful information. I believe that's
19 Papadopoulos, perhaps from the Chicagoland area if I'm
20 not mistaken, but you're asking me something from some
21 time ago.

22 Q You don't recall being told that he denied
23 any involvement?

24 A Not specifically.

25 Q Do you recall him saying, oh, that would be

1 treason to be involved with the Russians or collusion
2 with the Russians?

3 A Do I recall it? No.

4 Q Were you aware that information was not
5 included in the Carter Page FISA application?

6 A No, I was not.

7 Q Were you aware that Carter Page similarly
8 denied, for instance, knowing Paul Manafort?

9 A I don't have any knowledge or recollection of
10 specific statements made by either of those subjects.

11 Q Were you ever aware of any general concerns
12 of, okay, we recorded Carter Page through a confidential
13 human source and we didn't get what we wanted? Was that
14 ever raised to you in a more general sense?

15 A Didn't get what we wanted? No. So, I mean,
16 you're asking a generalized question. I would argue
17 that -- I'll just state that you record -- when you bump
18 a confidential human source and you record those
19 conversations, there are lots of statements made by the
20 confidential human source that -- or I'm sorry -- by the
21 subject in those wire recordings that may not be
22 accurate or truthful statements.

23 So am I aware of either there are statements against
24 or for? I don't have any specific knowledge of what
25 they said in their conversations with the source or what

1 was recorded so, no. But if you're asking me am I
2 surprised or do I have some level of disbelief that they
3 denied? That doesn't surprise me at all. As I
4 mentioned, that's fairly common.

5 Q Yeah. No. What I'm more asking more
6 generally is Carter Page, George Papadopoulos are both
7 recorded prior to the first FISA application being
8 submitted to the court, and I was just wondering if in
9 any of your daily briefings with Steinbach or someone
10 else someone raised a concern about what they received
11 on the recordings from the confidential human source.

12 A No. And so in the EAD's position, I wouldn't
13 be involved in the day-to-day investigative steps. I
14 was being briefed at the strategic level. I didn't
15 follow either that counterintelligence investigation
16 that closely or any other ones or in the hundreds of
17 counterterrorism investigations on the other side of the
18 house. So I would get updates at a strategic level, but
19 I wouldn't be apprised on a day-to-day basis of this
20 investigative stuff happened, and I didn't ask.

21 Q I think you kind of answered this, but I'd
22 like to just ask it again. So in these meetings with
23 Priestap where he's giving you updates on Crossfire
24 Hurricane, did he ever ask your approval for any steps
25 in Crossfire Hurricane?

1 A Not that I recall.

2 Q And he wouldn't have needed to? He could
3 have run with this?

4 A I think that he would have been briefing me
5 for strategic direction or approval, but not on
6 specifics. From a specific investigative point of view,
7 he wouldn't saying can I do step 1, 2, 3. That wouldn't
8 be par for the course.

9 Now, this investigation had of course a lot of
10 sensitive parts to it. So there were conversations that
11 went on more holistically at Director Comey's table with
12 the general counsel where broad-ranging conversations on
13 the direction of the investigation on where the
14 direction should go, so that was more probably the
15 strategic approval processing. Hey, we're good with you
16 going down this road and whatever steps are necessary to
17 meet those objectives are approved.

18 But I don't recall ever briefing a particular
19 investigative step or Priestap asking me for approval on
20 a specific investigative step.

21 Q Did you ever have interactions with Pete
22 Strzok on this?

23 A Sure.

24 Q Did he brief you on it?

25 A Yeah. He briefed me generally when Bill

1 wasn't available. So when Bill was not available at the
2 office and Pete was his acting for the day, Pete would
3 come in and brief me, or if there was a morning briefing
4 with Director Comey, often Pete was the briefer. Bill
5 was present and I was present, so I had a lot of
6 interaction with Pete.

7 BY MR. BAKER:

8 Q And Mr. Strzok would sit where on the org
9 chart? You're at the top of the national security
10 apparatus as the EAD and of course as deputy and
11 director. Bill Priestap's below you as the assistant
12 director. Where does Mr. Strzok fall?

13 A So Bill Priestap was the assistant director
14 of counterintelligence division, and he had three deputy
15 assistant directors. Pete was one of them.

16 Q Who were the other two?

17 A I don't recall. Maybe three. Maybe four. I
18 don't remember.

19 Q And then below --

20 A If you'd give me some time, I'll remember.

21 Q But below Pete. Who would be below
22 Mr. Strzok? Who would be below him? The SSAs?

23 A No. There would be a number of section
24 chiefs and then below section chief would be unit chiefs
25 and then below unit chiefs would be supervisors.

1 Q Do you remember any of the section chiefs' or
2 unit chiefs' names?

3 A No. The only section chief that I
4 recall -- again, if you remind me -- I met with the
5 section chiefs and even unit chiefs periodically, you
6 know, so on an occasional basis. And I'd probably
7 recall some of them if you threw their names in front of
8 me, but not right now.

9 Q And then will there be intel analysts
10 embedded in that apparatus too?

11 A Sure. That would be the headquarters program
12 management structure. There would be -- and that is
13 separate from the field offices' chain of command.

14 BY MR. SOMERS:

15 Q So these meetings with Director Comey,
16 Priestap would be in these meetings, generally?

17 A Generally.

18 Q So he might miss a couple. Strzok is in
19 these meetings generally or only when Priestap's not
20 there?

21 A No. There were times -- the morning meetings
22 with Director Comey were always attended by his
23 assistant directors, so Pete wouldn't be in that
24 meeting. However, there were times, maybe a couple
25 times a week where director would excuse everybody

1 except for a small handful.

2 At that point, Pete and perhaps Jonathan Moffa and
3 some deputy general counsels will come in specific to
4 Crossfire Hurricane to provide that very specific
5 briefing. That happened -- I don't know. There were
6 times it happened daily. There were times it happened
7 once a week. I don't recall, but that would be
8 generally the mechanism. And Pete would come in at the
9 request of Bill Priestap to provide some strategic
10 briefing on Crossfire Hurricane or what other matters
11 therefore.

12 Q Did Lisa Page attend those meetings?

13 A Yes. She attended as the special assistant
14 to the deputy director, and I don't know that she
15 attended all of them. I would say that generally she
16 was not in the morning briefing with the director, and I
17 don't know that she came in for the morning briefings
18 with Pete. Perhaps one time, but I can't recall.

19 Q And McCabe was in these meetings?

20 A Well, he was deputy director. He was in the
21 meetings up until a point I think, and then if I recall,
22 he excused himself and from that point on Dave Bowdich,
23 who was the associate deputy director, stepped in to
24 fill Andy McCabe's position.

25 Q Did lawyers attend any of these meetings?

1 A Most of the meetings.

2 Q Did [REDACTED] attend these meetings?

3 [REDACTED]: I'm going to object. These are
4 non-SEsers. We don't want their names on the record.

5 Mr. Somers: All right. We can redact the names
6 from the record, but you'll have to explain to the
7 witness who everyone's identifier is.

8 [REDACTED]: I'm sorry?

9 Mr. Somers: I'm happy to redact from the record
10 their names, or we can get the chart out, and I can ask
11 him by their identifiers in the IG Report, but you're
12 going to have to tell him who each one of these
13 individuals is.

14 [REDACTED]: I don't think we're going to identify
15 them at all by name. So you can refer to them as a unit
16 chief, but we're not going to be referring to them by
17 name.

18 Mr. Somers: Okay. My only point is I'm not sure
19 the witness knows the identifiers.

20 [REDACTED]: We're not going to be identifying people
21 who people are in the report who aren't identified.

22 Mr. Somers: Okay.

23 [REDACTED]: And so, in other words, you're asking him
24 if case 1 is John Doe. We're not going --

25 Mr. Somers: No, I'm not asking him -- I know who

1 they are. I'm not asking to identify them. I'm saying
2 I'm not sure that if I asked the witness who the OGC
3 unit chief is if he knows who that is.

4 The Witness: I don't know who that is. A unit
5 chief wouldn't likely be at that meeting.

6 BY MR. SOMERS:

7 Q You just said that the chief would be at the
8 meetings. That's what I'm saying.

9 Mr. Somers: I'm happy to redact the names out of
10 the transcript.

11 [REDACTED]: And I'm going to ask the witness not to
12 identify non-SESer names.

13 Mr. Somers: If I ask the witness a question, are
14 you going to, in a sidebar, tell the witness the name of
15 the person, and we'll just keep it to the identifier?

16 [REDACTED]: I can sidebar with him.

17 Mr. Somers: I'd like to ask him whether the OGC
18 attorney identified on page 82 was in any of these
19 meetings.

20 [REDACTED]: Give us one minute.

21 Mr. Somers: Okay.

22 [REDACTED]: We may want to go back and visit some of
23 the names, but I'll give you a little bit of leeway of
24 this, and we'll see how we can do it.

25 Mr Somers: Okay.

1 ██████████: You said 82?

2 Mr. Somers: 82. There's two. I just want to ask
3 about two people. I can tell you who they are, but if
4 you want to converse so we're both asking about the same
5 person. I can say it off the record.

6 ██████████: Let's go off the record.

7 (Discussion off the record, after which a recess was
8 taken.)

9 BY MS. ZDEB:

10 Q Mr. Steinbach, right before the break,
11 Mr. Somers was asking you some questions about a
12 conversation between George Papadopoulos and a
13 confidential human source. I had just a couple of
14 follow-up questions about that.

15 So in your experience, do targets or subjects of an
16 investigation sometimes deny that they are engaged in
17 criminal conduct?

18 A Sure. All the time.

19 Q And I think you said earlier that it was
20 fairly common for subjects to not be completely truthful
21 when talking to a confidential human source.

22 A Sure. Yeah. Yes.

23 Q And in your experience, should an agent or a
24 prosecutor stop investigating a particular individual
25 just because that individual denies engagement in

1 criminal conduct?

2 A Course not.

3 Q Should the FBI shut down a
4 counterintelligence investigation just because a subject
5 happens to deny wittingly working with a foreign
6 government?

7 A The FBI should not shut down that
8 investigation.

9 Q And so, in other words, there could still be
10 a very legitimate need to investigate because that US
11 person could be wittingly working with a foreign
12 government or could be unwittingly working with a
13 government, but in either case there might still be a
14 legitimate basis to investigate?

15 A Correct.

16 Q To the extent that denials by
17 Mr. Papadopoulos were not disclosed to the FISC in one
18 of the FISA applications, should they have been?

19 A So I couldn't comment. I mean, you're asking
20 a question. I think I would have to look at the
21 totality of the situation. The FISC should have
22 information necessary to make informed decisions. That
23 statement by and in itself I can't answer.

24 Q You may be aware from your review of the
25 Inspector General's Report that Director Wray said that

1 the FBI is taking a number of corrective actions in
2 response to the FISA errors that the IG identified.

3 Do you have any reason to believe that the FBI is
4 not taking appropriate steps in response to the IG's
5 Report?

6 A I don't really have any firsthand knowledge
7 either way. I'm not in the FBI any longer. I think
8 I've had one off-line comment with a supervisory
9 individual, and that person described training he was
10 taking with respect to FISA, but I couldn't comment as
11 to whether Director Wray or the FBI were taking it
12 seriously or not taking it seriously. I was just not
13 involved.

14 Q But you certainly have no basis to say that
15 they are not taking it seriously?

16 A Correct. Correct.

17 Q Thank you.

18 BY MS. CALCE:

19 Q So my colleague was just asking you a little
20 bit about the Inspector General's Report. As you may
21 know, the Inspector General examined more than a million
22 documents and interviewed more than 100 witnesses.

23 Were you among the people that he interviewed?

24 A I have had several IG investigations, and I
25 believe that was one of them, yes.

1 Q Do you remember if he interviewed you once?
2 Multiple times?

3 A So in totality between the Clinton e-mail
4 investigation and the Russian influence investigation,
5 since I've left the FBI, I think I've been interviewed
6 seven or eight times by IG, by DOJ, by WFO, by the US
7 Attorney's Office, all those as a witness I should say.

8 Q And did you provide complete and truthful
9 answers to the IG in those investigations or to any of
10 them with whom you've spoken?

11 A Yes.

12 Q Do you remember if you provided any documents
13 in connection with the IG's investigation?

14 A I've not provided documents to anybody. I
15 don't have documents to provide.

16 Q Did the Inspector General ever complain that
17 it needed more information from you?

18 A No.

19 Q And you said that you had -- you had your
20 team review the -- you read the summary and you had your
21 team review the full report. Did you --

22 A No. Let me clarify that. So my secretary
23 did a Google search of my name and just gave me the page
24 where I was referenced, and I scanned through them. So
25 that's the extent of my review.

1 Q Did you ever -- did you have the opportunity
2 to review the draft report before it was made public?

3 A No.

4 Q And the sections of the report that you did
5 review, was there anything inaccurate in your view?

6 A Not that I recall, no.

7 Q Okay. So before the break, we had spoken a
8 little bit -- you had mentioned a couple times that
9 perhaps you didn't review something, but the AD did.
10 Who was the AD?

11 A Bill Priestap.

12 Q And so I just want to ask a little bit about
13 your relationship with Mr. Priestap. What was your
14 relationship with him?

15 A I was his direct supervisor.

16 Q How long did you work with him?

17 A I think Bill and I were first office agents
18 in Chicago back in the late '90s. I didn't know him
19 well, and we knew each other by name. In the first
20 opportunity where I began to work with Bill more closely
21 was when I came back to headquarters as the
22 assistant -- first as the deputy and then as the
23 assistant director of counterterrorism.

24 At some point, he also returned to headquarters,
25 probably when I started to have -- first as a colleague

1 because he was also the assistant director, and then as
2 his boss, so probably -- I've known him -- the name for
3 20 years. In terms of a working relationship, over the
4 last two years of my career I had a close and continuing
5 working relationship with him.

6 Q And what is your professional opinion of him?

7 A Bill is a -- I'd describe Bill as a very
8 astute intellectual. He sees the big picture. I was
9 very impressed with his ability to see the big picture
10 in intelligence and kind of develop a thought process
11 around that, so he had very good intelligence instincts.

12 Q And do you believe that Mr. Priestap was
13 honest?

14 A Absolutely.

15 Q I want to talk a little bit about the opening
16 of the Crossfire Hurricane, and I know Mr. Somers and
17 Mr. Baker talked about that before the break, and you
18 had said that your recollection was not crystal clear,
19 but we kind of just want to get your expert opinion,
20 based on your 22 years with the FBI, whether you knew
21 this information at the time or whether you learned
22 about it in the press afterwards if certain things that
23 took place before the opening of the investigation would
24 have been significant.

25 So can you explain why the investigation was opened,

1 in legal terms what the predicate was?

2 A Predicate for Crossfire Hurricane?

3 Q For Crossfire Hurricane.

4 A So, again, from my perspective as I recall
5 it, there were investigations that kind of bled into
6 that. There were -- you know, there was a cyber
7 investigation, and there was a larger Russian influence
8 or Russian intelligence collection effort by the
9 counterintelligence division.

10 As I understand, the predicate for the individuals
11 that are now known as Crossfire Hurricane in each
12 instance singularly those individuals had some
13 interaction with a known or suspected or somebody
14 associated with a known or suspected foreign adversary,
15 a foreign intelligence officer.

16 Q And looking at the investigation as opposed
17 to -- looking at the investigation as a whole as opposed
18 to the individuals, you know, the Inspector General's
19 Report noted that in March and in May 2016 FBI field
20 offices identified a spear phishing campaign that was
21 perpetrated by the Russian military intelligence agency
22 and targeted e-mail addresses at the DNC and Hillary
23 Clinton campaign, and there were attacks on the DNC and
24 DCCC computer networks.

25 Can you explain why that would have been a

1 significant factor as far as the predicate of Crossfire
2 Hurricane goes?

3 A Well, I want to be clear that's not
4 necessarily a factor for Crossfire Hurricane. You can
5 have -- so the spear phishing campaign, as you call it,
6 or the cyber intrusion was identified associated with
7 foreign governments is significant in itself. I don't
8 know that there was a connection between that Russian
9 influence and these four actors at the very start as I
10 recall.

11 The fact of individuals on their own had contact or
12 some association is enough to open up a predicate on an
13 investigation. So I've not seen the opening
14 communication for any of those four subjects if it
15 references that cyber investigation or not. Whether it
16 does or not from my perspective based on my experience,
17 that's not a major factor. There's enough on those four
18 individuals regardless of what happened in the spring
19 with respect to the cyber attack.

20 [REDACTED]: Can I ask a question? Are you
21 reading from the IG Report?

22 Ms. Calce: I am.

23 [REDACTED]: What page number?

24 Ms. Calce: That was page 49.

25 BY MS. CALCE:

1 Q Mr. Priestap told the Inspector General, and
2 this quote is from page 53 of the report, that the
3 combination of the friendly foreign government
4 information and the FBI's ongoing cyber intrusion
5 investigation at the DNC has created a
6 counterintelligence concern that the FBI was, quote,
7 obligated to investigate.

8 Do you have any reason to dispute Mr. Priestap's
9 explanation of why he began this investigation?

10 A No. He's the assistant director of
11 counterintelligence. He's much more closer to the
12 information than I am or would have been, I should say.

13 Q And do you understand what Mr. Priestap would
14 have meant by counterintelligence investigation?

15 A Yes.

16 Q And what is your understanding of what he
17 meant?

18 A So he's saying that a friendly foreign
19 government, in this case a partner of ours, provided us
20 information suggesting there was a contact, there was a
21 connection between an individual and a foreign
22 government. That along with previous actions such as
23 cyber was all driving towards one overarching
24 counterintelligence -- or I'm sorry -- intelligence
25 operation.

1 Q And the phrase "counterintelligence" concerns
2 specifically -- what is that understood to mean? What
3 do you understand that to mean?

4 A So intelligence operations are just what they
5 are. Operations designed to gather intelligence
6 generally refer to, in the case of a foreign government,
7 a foreign government trying to gather intelligence on in
8 this case the United States. Counterintelligence is
9 just that. An effort to counter those intelligence
10 operations.

11 Q And do you agree that the information that
12 Mr. Priestap had described as having created a pattern
13 of intelligence concerning -- the FBI was obligated to
14 investigate? Do you agree that that created a
15 counterintelligence concern that the FBI was obligated
16 to investigate?

17 A Yeah, and I'll back up. So whether you're
18 talking about counterintelligence or counterterrorism,
19 on the national security side of the house we learned a
20 long time ago that to prevent an action versus being
21 reactive requires you to start much earlier to gather
22 intelligence. By nature, counterterrorism and
23 counterintelligence investigations at the start have
24 very low predicate by design.

25 Many counterterrorism and counterintelligence

1 investigations don't go anywhere based -- or further
2 than the initial predicate, and that's just the nature
3 of intelligence investigation. But to ensure the
4 national security of the United States, we open up on a
5 very low bar to ensure that we identify and proactively
6 prevent either terrorism or intelligence operations
7 against the United States.

8 BY MS. ZDEB:

9 Q And I think you said earlier when you were
10 discussing the chain of command for purposes of opening
11 a counterintelligence investigation, that although that
12 decision resided primarily with Mr. Priestap that you
13 technically you could have said no, although you would
14 have needed to also have made your case to the director
15 and the deputy director.

16 If you believed that there was not an adequate
17 predicate to make that case, would you have said no to
18 try to make that case?

19 A Let me back up. So a typical national
20 security investigation would not be approved by either
21 the EAD, the executive assistant director, nor the
22 assistant director. It wouldn't go to Priestap.
23 Perhaps -- I don't know. Perhaps in this case because
24 of the nature Bill played a particular role in that, but
25 normal investigations, Bill would not be part of the

1 investigative approval process.

2 To be more specific to your question, if I had
3 concerns about the predicate behind any national
4 security investigation, I could -- I could intervene at
5 my level and have that investigation closed.

6 Q And so the fact that you didn't intervene and
7 attempt to have the investigation closed or -- I guess
8 more accurately -- not open in the first place,
9 presumably is a reflection of the fact that you didn't
10 have concerns about the predicate?

11 A I had no concerns about the predicate or the
12 fact that we were pursuing Crossfire Hurricane further.

13 BY MS. CALCE:

14 Q The Inspector General found that there was no
15 documentary or testimonial evidence that political bias
16 or improper motivation influenced the decision to open
17 the investigation.

18 Did bias or improper motivation influence any of
19 your actions regarding the opening of the Crossfire
20 Hurricane case?

21 A No. Nor am I aware if influenced by any
22 member of my staff or the Director's Office.

23 Q Do you have any evidence that bias or
24 improper influence influenced any decision that
25 Mr. Priestap made with respect to Crossfire Hurricane?

1 A No.

2 Q Do you have any evidence that bias or
3 improper motivation influenced the actions of Mr. McCabe
4 with respect to the opening of Crossfire Hurricane?

5 A No.

6 Q And do you have any evidence that bias or
7 improper motivation influenced the actions of Director
8 Comey with respect to Crossfire Hurricane?

9 A No.

10 BY MS. SAWYER:

11 Q Thanks, Mr. Steinbach. We appreciate you
12 being here, and I'm sorry we're a little bit
13 tag-teaming, but I just had a couple questions for you
14 as well.

15 And I want to explain where I'm coming from in my
16 questions to you. Because you may have observed, if
17 you've been watching the news, that there have been
18 questions raised as to whether there was ever a
19 legitimate reason to open Crossfire Hurricane, and it's
20 been put as whether there was ever any there-there.

21 And I know you've explained to us that you're not
22 entirely clear sitting here today what specifically you
23 knew then and what you've learned since, but I want to
24 ask you some questions just based on -- I mean, you're
25 the expert here. You were the head of the division that

1 was counterintelligence and counterterrorism. You know,
2 we're not experienced in that regard.

3 But when I look at these facts, it seems like a
4 clear case to me, but I just want to ask you some of the
5 facts, and you've explained already that at the time the
6 FBI was aware that there had been cyber intrusions,
7 hacks of US computer systems, including the Democrat
8 National Committee's computer systems; is that correct?

9 A Yes.

10 Q And can you explain why that itself created a
11 concern and it warranted investigation?

12 A Warranted the investigation on the cyber
13 side, or are you talking about Crossfire Hurricane?

14 Q I'm talking about an investigation, period --

15 A Well, sure.

16 Q -- whether or not it was Crossfire Hurricane
17 yet.

18 A And, again, my recollection of the situation,
19 this is not one singular investigation that's kind of
20 moving through the course of 2016. There's a number of
21 factors. We've been aware for a long time that foreign
22 adversaries such as China, Russia, and others collect
23 intelligence on United States. They do so in a variety
24 of different ways: using human sources, using cyber
25 techniques, and other technical collection measures.

1 Any time we identify cyber intrusions that are
2 associated with a nation state are a concern to us.
3 It's not uncommon and it happens all the time, but it's
4 a concern, particularly when they are successful,
5 particularly when they are focused not only on the
6 private sector, but on institutions, and in this case
7 our political institutions like the DNC or the RNC.

8 I'm going to go off a little bit. So my opinion is
9 that it was completely appropriate for us to open up
10 counterintelligence investigations on those individuals
11 with or without the preceding cyber investigations or
12 preceding cyber intelligence.

13 As I mentioned to Zach earlier, if an individual has
14 contact or associations with a foreign government's
15 intelligence operatives or suspected intelligence
16 operatives or someone associated with that, we have to
17 go take a look into that matter. It has nothing to do
18 with that individual's -- it does not necessarily have
19 anything to do with that individual's position, the fact
20 that he is in a campaign or for a Democrat or
21 Republican. By the nature of this contact or alleged
22 contact or belief, we will have to look into that.

23 Now, it may be innocuous. There may be nothing to
24 it, but the FBI would be highly scrutinized and should
25 be if they did not follow that investigative lead.

1 Counterintelligence investigations are very difficult.
2 We've had a number of high-profile spies that have
3 caused significant. When you look at the history of
4 those investigations, you'll find that there were a lot
5 of warning signs that were unheeded. I hope today the
6 FBI continues to open up and robustly pursue
7 counterintelligence investigations when there's
8 appropriate predicate.

9 So I don't find anything unusual in the steps that
10 we took. When I was briefed on it, I found the actions
11 and the processes in accordance with our standards.

12 Q So specifically with regard to
13 Mr. Papadopoulos, the FBI did come to learn that he had
14 been told or that he had told someone that he had been
15 told in April of 2016 that Russia had e-mails -- had,
16 quote, dirt on Hillary Clinton in the form of, quote,
17 thousands of e-mails and that they were willing to
18 release them anonymously in order to harm Hillary
19 Clinton's campaign.

20 Would learning that have been alarming enough or a
21 sufficient predicate or some there-there to open an
22 investigation?

23 A So I guess, first of all, what you're saying
24 I recognize, but I don't know if I recognize it from my
25 time or all the media. Taking it on its own your

1 statement is absolutely concerning. I don't know that I
2 can clearly say in the spring of '16 I knew that, but I
3 have heard since or now it's part of my recollection on
4 the Papadopoulos' stories particularly, but that by
5 itself is a concerning statement, yes.

6 Q And to be clear, I understand your concern
7 because you can't recall whether you knew it and exactly
8 when you learned it. What I'm asking really honestly,
9 not to try to trip you up on that, is sitting here as a
10 counterintelligence and counterterrorism expert, if I
11 give you these facts for your opinion as to whether or
12 not that's a sufficient predicate. So you don't have to
13 reanswer. I'm just clarifying.

14 We have actually seen that opening document on the
15 investigation, and it indicates that that information
16 came to the FBI on or about July 26th of 2016 for the
17 first time, even though Mr. Papadopoulos had told
18 someone associated with a friendly foreign government
19 back in April, and it's just my understanding that the
20 reason the friendly foreign government then told our
21 government was because WikiLeaks had just released
22 20,000-plus e-mails that appeared to have been hacked
23 from the DNC.

24 Do you recall learning those facts at any point in
25 time?

1 A Vaguely. I mean, my recollection is not a
2 hundred percent on the timeline and those topics. I
3 recall the friendly foreign government, if I remember
4 correctly, struggled with the decision because it did
5 not want to appear to be involved in a political
6 situation. They ultimately made the decision because
7 they felt that a foreign government was taking
8 inappropriate steps, but I don't recall to your point
9 the timeline of WikiLeaks.

10 All that does resonate. I'm just not sure how I
11 recall it specifically.

12 Q And if a friendly foreign government had come
13 with that information, would that have been concerning,
14 enough of a legitimate predicate, a there-there for
15 opening a counterintelligence investigation?

16 A Yeah. So when you look at the -- when you
17 look at the investigating guidelines for the FBI in
18 terms of opening an investigation, it specifically talks
19 about things and levels and confidence levels of
20 investigation. So I would not be able to open an
21 investigation say on a mere hunch that you were a spy.
22 If somebody told me you were a spy, that's at a certain
23 level, so you have to consider the source and motivation
24 of the source, and then you move your way up.

25 A foreign intelligence person or a foreign

1 government has a lot of clout behind their information.
2 They come to us, particularly a close partner, and
3 provide us intelligence. That's a threshold that's very
4 significant. So for them to provide this information
5 did and should have been rightfully taken very
6 seriously.

7 Q So another legitimate factor that was weighed
8 into it was the source, that this was a friendly foreign
9 government [REDACTED] who was providing us with this
10 information?

11 A Absolutely.

12 Q So moving from Mr. Papadopoulos to Mr. Page,
13 it's my understanding that reasons articulated by the
14 FBI as to opening an investigation that involved
15 Mr. Page cited to recent trips he had taken in July of
16 2016 to Moscow and the fact that he may have met with
17 individuals associated with the Russian government while
18 there.

19 Would that type of information have provided a
20 sufficient predicate for the opening of an investigation
21 that involved Mr. Page?

22 A To be clear so, yes. First of all, I don't
23 know that I knew it at the time, but what you've just
24 stated on face value, absolutely. It would be enough
25 proof for an investigation.

1 Q And then with regard to Mr. Manafort, who was
2 at the time the campaign manager for Donald Trump's
3 campaign, facts recited by the FBI as a basis for
4 opening a counterintelligence investigation involving
5 Mr. Manafort included the fact that he had close ties
6 with individuals associated with the Russian government,
7 including potential Russian oligarchs.

8 Would that have been a sufficient basis for opening
9 a counterintelligence investigation that involved
10 Mr. Manafort?

11 A Yes. So I want to make sure I'm clear. So,
12 like, there's a little bit of a nuance to this, right?
13 So when you say close association to an individual from
14 a foreign government, so if Mr. Manafort had an ongoing
15 business relationship that was out in the open, that
16 would be one level of detail. If Mr. Manafort had a
17 clandestine or covert relationship, that would be
18 another level of detail.

19 So there is some nuance to the relationship piece.
20 So if I -- if I -- again, to make sure I'm clear, if the
21 relationship -- I'm not saying in either case it would
22 not be grounds to open an investigation. You have to
23 take a look at the manner of the contact. Outward and
24 public contact, say, at a conference is one level of
25 detail versus a more clandestine covert relationship is

1 something else. But, in general, there would be concern
2 if there was contact.

3 Q And in the Inspector General Report of the
4 FISA applications on Carter Page, on page 60 it does
5 recite some of the rationales, and it says, "Regarding
6 the articulable factual basis on Manafort," it says,
7 quote, May wittingly or unwittingly be involved in
8 activity on behalf of the Russian Federation which may
9 constitute a federal crime or threat to the national
10 security, and they then go on to cite that he had
11 extensive ties to pro-Russian entities of the Ukrainian
12 government.

13 That articulation of a basis, a there-there for
14 opening a counterintelligence, in your experience, would
15 that have been sufficient?

16 A Yes. And, again, I think it's key. I think
17 Zach brought it up earlier. Witting or unwittingly, and
18 I was saying that the individual was wittingly an
19 individual. He may be -- just by nature be being used
20 as a pawn unwittingly. So there are times when the
21 counterintelligence investigation certainly identifies
22 somebody who's unwittingly being targeted.

23 Q And then with regard to Mr. Flynn, again, it
24 articulated that quote, He may wittingly or unwittingly
25 be involved in activity on behalf of the Russian

1 Federation which may constitute a federal crime or
2 threat to national security, and then cites to, quote,
3 various times to state-affiliated entities of Russia and
4 the fact that he traveled to Russia in December of 2015.

5 Would that have been a legitimate factual predicate,
6 a there-there, for opening a counterintelligence
7 investigation on Lieutenant General Flynn?

8 [REDACTED]: Can you repeat the page again?

9 Ms. Sawyer: It's page 60.

10 The Witness: Can you repeat that again?

11 BY MS. SAWYER:

12 Q Sure. With regard to Mr. Flynn --

13 A Yes.

14 Q -- who was also at the time working with the
15 Trump campaign as at least an informal advisor, the
16 Inspector General Report reflects that once again the EC
17 for opening an investigation on Mr. Flynn stated that
18 he, quote, May wittingly or unwittingly be involved in
19 activity on behalf of the Russian Federation which may
20 constitute a federal crime or threat to the national
21 security, end quote. And it just goes on to note that
22 he had various ties to state-affiliated entities of
23 Russia and traveled to Russia in December of 2015?

24 And my question was whether or not those facts would
25 have provided an adequate predicate, a there-there, for

1 opening a counterintelligence investigation on
2 Mr. Flynn.

3 A Yes.

4 Q Can you explain why in your experience that
5 would have been sufficient?

6 A Again, I'll go back to what I've said several
7 times today. Any time an individual has contact or
8 association with a foreign government or an adversary
9 such as Russia in their intelligence apparatus or
10 individuals associated with their or believed to be
11 associated with their intelligence apparatus, there's a
12 concern, and so due diligence would require that we
13 continue to look into that.

14 It could be witting. It could be unwitting. It
15 could be nothing at all. But the FBI would be roundly
16 criticized if we do not follow through on one of those
17 investigative leads.

18 Q So you said the FBI would have been roundly
19 criticized had they not followed those leads. Do you
20 think they would have been rightly criticized if they
21 hadn't followed those leads?

22 A Yes. Absolutely. Again, there's been a
23 number of intelligence failures in recent memory, and in
24 every single instance when you do a group analysis and
25 you look back at the facts, there was evidence or

1 intelligence we should have followed up on that was not.
2 So you try to learn from those. And so I think from a
3 counterintelligence and a counterterrorism perspective,
4 we teach our agents and analysts to leap forward.

5 Q You have mentioned a few times and in fact
6 the ECs in opening on these individuals mentioned that
7 the potential participation in Russian interference
8 could have been wittingly or unwittingly. There have
9 been questions raised as to why, if it was potentially
10 unwittingly, the FBI didn't simply go to these four
11 individuals and alert them and ask them if they were
12 participating.

13 Now, Mr. Priestap was asked that question during the
14 Inspector General review, and he explained the concern
15 that it could inadvertently tip off individuals who were
16 interfering. But from your perspective, I would just
17 like to have an understanding as to why the FBI would
18 not have gone to these individuals and just said to them
19 this is their concern, that you may be working with
20 Russia wittingly or unwittingly.

21 A It's a good question. It's a valid question
22 to ask, and it's a subjective call in each instance, and
23 it's based on a totality of the facts known at the time,
24 the intelligence known at the time. Clearly, in any
25 counterintelligence investigation, for it to be

1 successful, you need to keep it covert. Once that
2 investigation becomes known, of course your ability to
3 fully flesh out contacts, paper trails, et cetera, et
4 cetera, disappear. You may never be able to follow
5 through with that investigation.

6 So the decision to go from covert to overt, which
7 would include providing a briefing to what would be the
8 unwitting individual is a step that's taken but after
9 careful consideration, and it's a judgment call based on
10 the totality of the facts.

11 Sometimes we go forward and provide that
12 counterintelligence briefing to somebody we believe is
13 unwitting, but it's only after we assess the situation
14 to determine -- determine to the best of our knowledge
15 that the person is not acting witting and that doing so
16 will not cause harm to the overall intelligence
17 gathering efforts by the FBI.

18 Q And do you recall whether there was any
19 discussion of those factors as these investigations were
20 being opened and whether or not just approaching these
21 individuals would have made sense?

22 A I don't recall specifically. I don't know.

23 Q And if you had been uncomfortable with the
24 fact that instead of approaching them the decision had
25 been to at least open these investigations, would you

1 have raised that? And I know I'm asking you to think
2 back four years.

3 A Say that again.

4 Q I'm just saying if you had been uncomfortable
5 at the time with the notion that given the options we
6 can open counterintelligence investigations and see
7 where they lead, which is what I understood you to be
8 saying to me for two reasons, one, you don't know
9 whether that specific individual, but it also might
10 interfere with the broader counterintelligence
11 investigation, if you had been uncomfortable at the
12 time, do you think you would have raised it, that we
13 should just simply go to these people and talk to them?

14 A That would be -- in my opinion, that would be
15 unwise. At a minimum, you'd still open on them, gather
16 additional facts, then make the decision. You wouldn't
17 make the decision upfront to provide them a
18 counterintelligence briefing based on the initial
19 predicate. The initial predicate -- the right decision
20 at the time, and I still believe the right decision
21 today, was to open up on those individuals.

22 If later through the course of the investigation as
23 you work through it you determine that they were
24 unwitting, then it would be wise to provide some type of
25 counterintelligence awareness or provide other

1 protections if you couldn't provide a threat review
2 securely.

3 Q And on that front, if you have an
4 investigation that is broader -- I mean, we're talking
5 about four individuals here, and let's say with regard
6 to one of them at some point the investigators
7 determined that this individual was not a witting
8 participant and there is no current risk that they are
9 unwittingly participating.

10 Would it be a reasonable judgment call not to then
11 brief them because it could put the broader
12 investigation at risk?

13 A Oh, I mean, I'll actually answer that more
14 broadly. Many counterintelligence and counterterrorism
15 investigations, they are opened up and more are
16 potentially closed for lack of follow-up. We don't
17 routinely go back and advise those individuals that,
18 hey, we opened up a preliminary investigation. It would
19 not be standard practice for us to go back and say we
20 are no longer looking at you from a counterintelligence
21 perspective. That's in isolation.

22 To your point, yeah, if there were other individuals
23 that had association, we would certainly not go and
24 provide any information to the person, even if we shut
25 down one part of it while a remaining investigation is

1 going on.

2 Q So to be more concrete, if for example the
3 FBI and Justice Department had determined that Mr. Page
4 at some point was not a witting or potentially even
5 unwitting participant, would it -- would it surprise you
6 that they hadn't then gone to him and said, you
7 are -- you once were, but you are no longer a subject of
8 counterintelligence or other investigations?

9 A It would surprise me if they did do that, and
10 I would have been -- I would have instructed them, if
11 they came to me with that request, not do it. It's not
12 in the best interest to advise Carter Page that we are
13 no longer looking at you.

14 Q I think that's all I have for the moment.
15 Thank you.

16 BY MS. ZDEB:

17 Q So, as you know, Crossfire Hurricane
18 eventually morphed into the Special Counsel -- was taken
19 over by the Special Counsel investigation and at a
20 certain point transitioned from being a purely
21 counterintelligence investigation to also having
22 criminal aspects of the investigation. Three out of the
23 four individuals that Heather was just asking you about
24 were eventually charged with crimes as part of the
25 Special Counsel's investigation.

1 Last week former Deputy Attorney General Rod
2 Rosenstein testified before our committee and seemed to
3 endorse the view that because the Special Counsel did
4 not charge any of those individuals with conspiring with
5 Russia, that that meant there was not a there-there, so
6 to speak, to open the investigation in the first place.

7 So you have just talked about the there-there to
8 open the four individual investigations that Heather
9 just asked you about. So I guess my question is: Does
10 the FBI require agents, when opening an investigation,
11 whether counterintelligence or criminal, to have some
12 sort of expectation at the very outset that they will
13 find and be able to conclusively prove criminal
14 wrongdoing in order to open that investigation?

15 A Of course not.

16 Q And what impact would imposing a requirement
17 along those lines have on the Bureau's ability to
18 investigate counterintelligence concerns and investigate
19 and eventually prosecute crimes?

20 A Again, I highlighted those earlier. The
21 predicate for opening national security investigations
22 is set low for a reason, and that reason is because we
23 are required to prevent. When you prevent a crime from
24 being committed versus investigating it after the fact,
25 you are essentially starting your investigation before

1 steps have been taken by the subjects gets criminal in
2 nature.

3 So from the perspective of a spy or a terrorist, we
4 would have a lot more spies and a lot more terrorists
5 running around the country successfully conducting their
6 operations if we had some ridiculous standard that
7 required FBI agents to only open on cases that they were
8 100 percent -- first of all, it's an absurdity.

9 And any US attorney, including the deputy assistant
10 director, knows that. You open up an investigation, and
11 by guidelines it's a very low predicate, and there's a
12 process by which you move up that chain, that
13 evidentiary chain, until you get to a point where you
14 can effectively conduct an arrest and charge somebody
15 and prosecute somebody.

16 BY MS. SAWYER:

17 Q Can I just interject with a quick question?

18 I'm just curious from your perspective -- now,
19 there's been conversations about whether a campaign, if
20 it's tipped off that a foreign government might be
21 seeking to assist it, whether or not they should have an
22 obligation or -- whether moral or legal, honestly, to
23 report that to the FBI. I'm curious as to your opinion
24 on that.

25 A Yeah, I don't want to get into a political

1 conversation. I would hope that the US citizen, if he
2 believed or she believed that he or she was the target
3 of the counterintelligence operation, regardless of
4 their position in government or political party, would
5 have -- would feel a duty and be duty-bound to advise
6 the FBI immediately.

7 Q So speaking concretely then, when
8 Mr. Papadopoulos was informed by a Professor Joseph
9 Mifsud, that Russia had obtained e-mails and was willing
10 to release them to harm Hillary Clinton, is that
11 something that should have been reported to the FBI?

12 A Absolutely.

13 Ms. Zdeb: That concludes our questions for this
14 round. We can go off the record.

15 (Recess.)

16 Mr. Somers: It's now 12:25. Back on record.

17 BY MR. SOMERS:

18 Q Something you mentioned in the last round,
19 you used the word "successful," "successful
20 counterintelligence investigation," and I just want to
21 ask you.

22 What's the goal of a counterintelligence
23 investigation versus maybe what the goal of a criminal
24 investigation is? The question is just: What's the
25 difference between a counterintelligence investigation

1 and a criminal investigation?

2 A Sure. So the primary purpose of any national
3 security investigation is the collection of factual
4 intelligence to, you know, safeguard the United States.
5 So I would say the overarching goal of a
6 counterintelligence investigation is to collect
7 actionable intelligence to therefore prevent
8 intelligence operations by foreign adversaries.

9 Q And another thing that was asked in the last
10 round I just want to clarify a little bit. I think it
11 was asked more was it ever contemplated to brief any of
12 the four individuals who were subjects of the Crossfire
13 Hurricane or Crossfire Hurricane umbrella
14 investigations.

15 Were you ever involved in any discussion of whether
16 to offensively brief Candidate Trump or the Trump
17 campaign about these threats?

18 A So, yes. There were conversations where we
19 prepped Director Comey to then go and speak to his
20 counterparts in the intelligence agency, to include
21 General Clapper about how to brief President-Elect
22 Trump. I don't recall if those conversations occurred
23 while he was still a candidate or if it occurred after
24 the election.

25 But there were conversations had about the scope of

1 what we would provide to the candidates, and I believe,
2 if I'm not mistaken, there was a national security
3 briefing forwarded to both candidates in the fall on a
4 periodic basis. I'm not a hundred percent convinced of
5 that, but I believe -- I want to say we made a separate
6 arrangement to brief Candidate Trump up in New York at
7 the Trump Towers, if I'm not mistaken.

8 Q Just while we're on that particular briefing,
9 were you involved in any discussions about whether to
10 send a particular supervisory special agent to that
11 briefing in order to observe General Flynn?

12 A I'm not aware of that.

13 Q And then the subject of offensively briefing
14 either the Trump campaign or Candidate or
15 President-Elect Trump, do you recall whether that
16 discussion you just referenced occurred before or after
17 the Carter Page -- October 21st of 2016 is when the FBI
18 applied for a FISA warrant on Carter Page.

19 Do you recall whether that discussion occurred
20 before or after October 21st, 2016?

21 A So as I remember, there were numerous
22 conversations about providing briefings to both
23 candidates, but I don't recall when specifically those
24 conversations or the exact contact context of those
25 conversations.

1 By the way, the campaign -- I want to make sure
2 we're clear -- we were not briefing a broad number of
3 members of the campaign. We'd be briefing the
4 candidate.

5 Q Yeah, but a couple close -- very close
6 advisors?

7 A Right. Yes.

8 Q That's what I --

9 A Sure.

10 Q When did you learn about -- let's just call
11 it the Steele dossier or the Steele election reporting.
12 When did you learn about that?

13 A I don't recall. Sometime in 2016, but I
14 couldn't tell you. Summer maybe. Summer time frame.

15 Q What was your understanding when you learned
16 about it, like, what it was?

17 A What do you mean?

18 Q Where it came from. What -- you know, what
19 it consisted of.

20 A So I had a copy of it. It was on my desk for
21 a while. So in terms of, if I recall, it was a report
22 written that had a variety of sourcing that provided
23 information on topics associated with Russian influence,
24 if I recall correctly.

25 Q Did you know who Christopher Steele was while

1 you had his report sitting on your desk?

2 A Did I know who he was? I didn't know much
3 background. I think I had some understanding that he
4 previously provided information to the FBI on a criminal
5 matter. I didn't know much beyond that, no.

6 Q And did you understand why he was collecting
7 this information?

8 A I recall there was an initial request by a
9 campaign or political party to fund his efforts, if I'm
10 not mistaken, but I don't recall specifically.

11 Q And you don't recall knowing that the DNC had
12 funded those efforts?

13 A So what you said I know from the news media.
14 I don't know that I knew it to that level of detail in
15 the summer of 2016.

16 Q And you were aware that Steele was a -- were
17 you aware that Steele was a confidential human source
18 for the FBI?

19 A Yes.

20 Q What's the FBI's Delta system, generally?

21 A So I hope I don't mess this up. It's been a
22 while. I believe that's our source system.

23 Q It has information about confidential human
24 sources?

25 A Yeah. It's, by nature, a closed-off portion,

1 you know, not just files, files, et cetera.

2 [REDACTED]: I'm going to interrupt for a moment. I
3 need to confer about what he can and can't say about
4 this.

5 Mr. Somers: I don't need much more from him about
6 what's in the -- I don't need anything more from
7 him -- let me ask my next question.

8 [REDACTED]: Okay.

9 BY MR. SOMERS:

10 Q So you knew that Steele was a confidential
11 human source. Is the Delta system a place that you
12 would expect agents to go to get information on
13 Christopher Steele prior to using any information he
14 provided in a FISA application?

15 A No.

16 Q You would not expect them to go to Delta
17 system. So you then wouldn't be surprised if they did
18 not go in the Delta system prior to using Christopher
19 Steele's information in the Carter Page FISA
20 application?

21 A The source system in the FBI's designed to
22 provide a structure to maintain the integrity of the
23 source [REDACTED]

24 [REDACTED] --

25 [REDACTED]: I'm going to interrupt. I'm going to

1 stop this explanation as to what is involved with our
2 Delta system. Do you really need to go into that?

3 Mr. Somers: No. Basically, I just wanted the
4 answer whether he was surprised they wouldn't have gone.

5 [REDACTED]: Okay. Well, I'm going to instruct the
6 witness not to go into this.

7 BY MR. SOMERS:

8 Q We talked about the Woods Procedures earlier.
9 Just while we were on this topic, were you aware of the
10 requirement that -- at the time were you aware of the
11 requirement that a handling agent must sign off on the
12 source characterization statement in a FISA?

13 A I don't think so, no.

14 Q So you were not aware that as part of the
15 Woods Procedures if a FISA application is going to use
16 information from a confidential human source, the
17 handling agent for that confidential human source has to
18 review and approve the source characterization statement
19 within the FISA application?

20 A I can't say that I knew that, but that
21 answers your question as to why the investigative agent
22 wouldn't have access to the source file, because of
23 the -- to keep the integrity of the system, which makes
24 sense, but I can't say that I --

25 Q You weren't aware of that Woods requirement?

1 A No, I do not.

2 Q Were you aware that Bruce Ohr was interacting
3 with Christopher Steele?

4 A No.

5 Q That didn't come up in your briefings?

6 A I don't think I even knew who Bruce Ohr was
7 until well after I retired and he became a media
8 sensation, so to speak.

9 Q Were you aware that FBI General Counsel Jim
10 Baker took evidence from -- the director took evidence
11 from Michael Sussmann related to the Trump campaign?

12 A No.

13 Q Michael Sussmann being a lawyer for the
14 Democratic National Committee?

15 A I don't know who Michael Sussmann is, and I
16 was not aware that Jim Baker took information from
17 Michael Sussmann.

18 Q Would it concern you that the general counsel
19 of the FBI inserted himself in the chain of custody of
20 evidence rather than passing it off to an agent?

21 A It would not concern me that legal counsel
22 for any organization, public or private, passed
23 information to legal counsel for the FBI, so, no, that's
24 not that unheard of. I would expect that general
25 counsel or any other agent in the FBI would then turn it

1 over to the prosecuting entities.

2 Q We spoke a little bit about the Steele
3 dossier. I think you mentioned him having sources.
4 Were you aware that he had a primary subsorce for the
5 information that was in his dossier?

6 A No.

7 Q So such that as the -- I'll just read to you
8 from the IG Report, on Roman V in the IG Report.
9 "Steele himself was not the originating source of any of
10 the factual information he was reporting. Steele
11 instead relied on a primary subsorce for information,
12 who used his/her network of subsources to gather
13 information that was then passed to Steele."

14 You weren't aware of that?

15 A So let me rephrase that. So I was not aware
16 of who or what the primary subsorce was. I was aware
17 that Steele, his information was from a collection of
18 subsources, yes, which is very common.

19 Q Okay. Were you aware that the FBI was trying
20 to identify, locate, and interview the primary subsorce
21 in the fall/early winter of 2016?

22 A I do remember that, yes.

23 Q Were you aware that they then located and
24 identified the primary subsorce?

25 A Zach, I think I remember that. I'm not sure,

1 but it sounds familiar, but I'm not sure if I knew about
2 it then or I've since learned about it.

3 Q So you weren't briefed on the fact
4 that -- well, let's put it this way.

5 Were you aware that he was interviewed by the FBI in
6 January of 2017?

7 A So I retired on February 24th. By January I
8 was starting to back out and turn over the reins. So I
9 don't recall. I do not recall that.

10 Q So you wouldn't have been briefed as
11 regularly in that time period? He was
12 interviewed -- this is in the IG Report -- on three days
13 in January: January 24th, 25th, and 26th.

14 And at that point in January, had you stepped back
15 from the earlier-described role of getting daily
16 briefings from Bill Priestap, et cetera?

17 A I think I still would have been doing that
18 early, but I don't recall now. I probably still would
19 have been going to the meetings with the director and
20 getting my briefings from Priestap, so I don't recall.

21 Q You don't recall. Do you recall anyone
22 raising any issues with the primary subsource interview?

23 A No.

24 Q So you weren't, you know, aware of
25 impressions such as -- these are quotes from the IG

1 Report -- that the primary subsource reports back
2 to -- I'm sorry -- is interviewed by the FBI, and some
3 of the comments he had about his reporting were that
4 Steele's primary subsource was giving Steele information
5 that was based on, quote, conversations with friends
6 over beers. The primary subsource would characterize
7 information he gave Steele as word of mouth and hearsay,
8 that his primary subsource told the FBI the information
9 was intended to be taken with, quote, a grain of salt.
10 The primary subsource corroboration on his reporting to
11 Steele was, quote, zero.

12 You weren't aware of any information like that
13 coming from your division?

14 A No.

15 [REDACTED]: I was just going to interrupt. Can
16 you --

17 Mr. Somers: Page 88.

18 [REDACTED]: If you're referring to direct quotes from
19 the IG, it would be helpful to get the page numbers so
20 we can put it in our notes and also get to it.

21 BY MR. SOMERS:

22 Q So the FBI interviewed Steele in January of
23 2017. It's fair to say you didn't get a readout of that
24 interview of the primary subsource, that you recall at
25 least?

1 A I would say probably fair I don't recall. If
2 somebody started to give a briefing, I wouldn't -- I
3 wouldn't disagree. I just don't recall.

4 Q There's no indication in the IG Report
5 whether you were or were not. That's why I'm asking.

6 A I don't recall.

7 Q Do you recall -- and I don't know if you were
8 on this e-mail chain. I'm assuming you don't recall an
9 e-mail from Pete Strzok where he said -- this is on page
10 247 on the IG Report, among other places -- that recent
11 interviews and investigation, however, reveal Steele may
12 not be in the best position to judge the reliability of
13 his subsource network, as the e-mail he sent doesn't
14 identify all recipients of the e-mail in the IG Report.

15 You don't recall seeing anything like that?

16 A I don't.

17 Q Were you aware of an electronic communication
18 drafted by the Washington Field Office -- the final date
19 on it's January 24th, 2017 -- a closing communication
20 closing the investigation into Lieutenant General
21 Michael Flynn?

22 A I'm not.

23 Q You're not aware of it at the time?

24 A I should say I don't recall.

25 BY MR. BAKER:

1 Q Aside from that specific closing
2 communication, what is the relationship between
3 headquarters and a field office when a case is to be
4 closed? What's the office of origin? What does the
5 term "office of origin" mean?

6 A Office of origin is the somewhat now
7 out-of-favor term for the office that has the
8 investigative -- investigation, so office of origin for
9 a particular case would be the office that originated
10 and ran that investigation, so you're speaking -- the
11 WFO would be the office of origin.

12 On the national security side of the house, closing
13 documentation was generally reviewed by headquarters.

14 Q So would it be unusual if -- you say
15 Washington field would be the office of origin on this.
16 Would it be --

17 A So I'm not saying that. I'm saying you've
18 used the term "Washington field." In this particular
19 matter, I believe we were running into somewhat of a
20 hybrid where we had -- technically Washington field was
21 brought over and working out of FBI headquarters as,
22 again, a now somewhat defunct term, like a special.

23 Q Okay. So because it was sort of this hybrid,
24 would it be unusual for Washington field to send a
25 communication saying that they've exhausted -- and these

1 are my words -- they've exhausted their leads?

2 I think they ran some database checks, I think some
3 FBI and some from another agency. They come back that
4 there's no derogatory information. They're reporting
5 that back to headquarters based on this kind of
6 collaborative relationship between the field and
7 headquarters.

8 Is it unusual that headquarters said, no, we're not
9 going to close this right now; there might be some other
10 things we want to do?

11 A I would say it's not unusual. I played that
12 role on the counterterrorism side several times where I
13 would not allow a field office to close or I would tell
14 the field office to open or to close. So I don't want
15 to use the word -- it's not common, but it's not
16 extraordinary. It does happen.

17 Q And would it be -- in the course of this
18 collaboration between headquarters and field, if
19 headquarters would decide, for whatever reason, that
20 they're not going to close the cases that field was
21 recommending, could headquarters go back and say, well,
22 we think there's A, B, and C investigative steps that
23 have not been done that need to be done, so sort of a
24 back-and-forth?

25 A Sure. Yeah. There are times when

1 headquarters steps into the field and says, you've not
2 satisfied us in either direction, and, therefore, we're
3 requiring you to take further investigative steps or not
4 take further investigative steps.

5 In general, the move the FBI made post 9/11 is to
6 have a national security side of the house stronger
7 program management and remove from the field some of the
8 investigative autonomy that was present 20, 30 years
9 ago.

10 Q And you've mentioned just a moment ago the
11 term "special," or I think something you referred to as
12 a headquarters special, and I think that is a term that
13 has changed as time has gone on. I seem to remember in
14 a different era a special was a funding mechanism where
15 headquarters funded a field office operation for travel
16 or whatever that would normally be incurred from the
17 field office budget. I think in this particular matter,
18 the instant matter, the term "special" meant something
19 different.

20 What does a headquarters special mean in this
21 instance?

22 A Yeah, you're absolutely right. The
23 term "special" many years ago was when the field offices
24 had autonomy. It provided a special funding code for
25 the field, stronger program management, and different

1 funding processes. That term has largely gone away. I
2 think it's probably not an appropriate term. Some
3 people use it.

4 But you could argue 9/11, the PENTTBOM
5 investigation, was somewhat like a special. It was run
6 out of the basement of FBI headquarters. So maybe not
7 the best use of terms, but generally refer to
8 high-profile investigation that was pulled in closer to
9 headquarters level.

10 I can't think of too many instances in recent
11 memory. 9/11 PENTTBOM for sure was one of them. The
12 domestic terrorism matter with the militia out in Oregon
13 was another similar. This, I believe, was a matter. So
14 probably special is a term that you hear FBI agents use
15 it doesn't mean the same as it did when you referenced
16 it from 20, 30 years ago.

17 So there's no official term. There's no official
18 process. It's just a more ad hoc definition of a
19 different way of doing or conducting an investigation.

20 Q But it doesn't mean that a party to the
21 investigation, a subject of the investigation, is
22 treated differently because it's a special
23 investigation?

24 A No, absolutely not.

25 Q It's just the sensitivity, the high stakes,

1 the resources that might be needed, the extra oversight
2 that might be needed because of what the instant matter
3 involves; is that fair?

4 A Correct. Yes. Fair to say.

5 BY MR. SOMERS:

6 Q Were you involved in other headquarters
7 specials throughout your tenure?

8 A Domestic terrorism, Oregon militia I was the
9 assistant director for that matter. That's probably the
10 closest I recall. There were a couple high-profile
11 counterterrorism investigations in the late -- like High
12 Rise. Although run by the field, it was closer to a
13 special. It was highly concentrated at headquarters.

14 Q Midyear Exam?

15 A Midyear Exam would be another one like that.
16 So I came in, you know, in February of -- no -- yeah,
17 February 2016, so Midyear was probably halfway over.
18 So, yeah, I was briefed on that. So the last half of
19 that would be another example.

20 Again, probably special is the wrong term, but that
21 more high scrutiny or highly scrutinized investigation,
22 yes.

23 Q So on these, it kind of means that the
24 seventh floor is going to have some more input than on
25 your ordinary case? Is that kind of what makes the

1 headquarters special?

2 A Yeah, it's not a -- I don't know
3 that's -- there's no -- obviously, you don't open the
4 book and see the word "special." It's clearly I think
5 for political sensitivity or other national security
6 concerns. The seventh floor, the director, deputy EADs
7 play a larger role in those type of investigations,
8 which were probably inappropriate to call them special,
9 yes.

10 Q That term like seventh floor, that's a term
11 that would be used within the FBI. Does an FBI agent
12 know what that meant?

13 A Sure.

14 Q And would you have been part of the, quote,
15 seventh floor as the EAD?

16 A Yeah. My office was on the seventh floor.

17 Q I just want to get back to that Flynn. Even
18 though you weren't aware -- so you weren't aware of the
19 Flynn closing memo on January 4th. Were you aware that
20 headquarter -- I'm sorry -- the seventh floor or
21 headquarters asked the Flynn matter be kept open at some
22 point in time?

23 A No. I wasn't -- I don't recall there being a
24 disconnect. Some folks wanted to close it, and some
25 folks on the seventh floor didn't.

1 Q Were you aware at the time of the phone calls
2 between Flynn and a foreign official?

3 A Yes -- well, at the time I was briefed on it
4 by either Strzok or by Priestap, SES.

5 Q Either Strzok or Priestap. Do you know about
6 when that was? Was it like -- was that yesterday, or
7 was this, you know, later in January?

8 A Sometime -- sometime after New Year's I
9 believe.

10 Q Were aware of Deputy Director McCabe sending
11 two agents, including Strzok, to interview Flynn at the
12 White House?

13 A Yes.

14 Q You were aware of that -- I'm sorry -- before
15 it happened or after?

16 A Yes, before it happened.

17 Q Did you approve that?

18 A You asked me if I -- first of all, it
19 wouldn't have been my -- the deputy director needs to be
20 in the conversation, so it wouldn't have been my purview
21 to approve it. It was his decision. But it was a
22 conversation that was had on Director Comey's table one
23 or more mornings. So I was aware of the plan.

24 In terms of approved, did I agree with the plan,
25 yes? Did I actually sign off on it? No.

1 Q So it didn't go -- I guess when I said
2 approved I meant up. So obviously, yes, the deputy
3 director eventually approved it. It can either be
4 approved by him, or it could go up through you and be
5 approved by him?

6 A Yeah. And in all of those matters, not only
7 with Crossfire Hurricane, but in many matters, even
8 Midyear, these were conversations the director was
9 making along with recommendations from field and
10 headquarters and general counsel. So I recall in this
11 situation the decision to go over to the White House and
12 interview General Flynn was discussed by the director
13 and deputy with us present.

14 I think there was a conversation that occurred about
15 the plan for -- and I don't recall anyone saying, hey,
16 it's approved. Go do it. I remember walking away
17 knowing it was going to happen, yes.

18 BY MR. BAKER:

19 Q Would there people present that did not think
20 it should happen; they had an opposite voice?

21 A I don't recall. I mean, I've told -- in
22 other settings I have told, and I'll stick to this,
23 Director Comey had a very open style of leadership, and
24 so we often disagreed or robustly discussed situations
25 or decision points in the morning and the afternoon in

1 Midyear and Crossfire Hurricane. There were a lot of
2 conversations where there was a back-and-forth.

3 In that particular instance, I don't recall. It
4 wouldn't surprise me if there was a contrary point of
5 view. Because often Jim Baker, whether he believed it
6 or not, would provide contrarian opinion to kind of
7 spark conversation and also to make sure the director
8 was thinking about full circle in the decision process
9 in that situation.

10 Q So it kind of sounds like Mr. Comey's style
11 was to kind of have everybody at the table participate
12 in the process. He heard everybody out and then made
13 the decision?

14 A Correct. That's accurate. I mean, there
15 were several instances while I was EAD where I disagreed
16 with him, where I provided a commentary, and he would
17 provide his feedback, and there would be a
18 back-and-forth. That happened. He encouraged it, and
19 he encouraged that type of leadership where there was
20 rigorous debate about topics.

21 BY MR. SOMERS:

22 Q The topic of whether to alert the White House
23 counsel, was that discussed in this meeting?

24 A I believe so. I believe so. But I'm not
25 strong enough in that opinion to know when I knew about

1 that.

2 Q The topic of whether to inform General Flynn
3 of penalties under 18 USC 1001, was that discussed in
4 that meeting?

5 A I don't recall.

6 Q Was Mr. Strzok in the meeting?

7 A I don't recall. He likely would have been.
8 I don't recall. Again, that same quorum or core group
9 of people that we talked about would have been present.
10 If they were there for every individual conversation, I
11 don't know, but the general same core: the director,
12 deputy, general counsel, deputy chief of staff, myself,
13 EAD Strzok. That core was there for most of the
14 conversations as long as they were in town.

15 Q Was Lisa Page part of that quorum, or let's
16 just say for that specific meeting? Was Lisa Page in
17 that specific meeting?

18 A Well, I don't recall if she was there. She
19 was there for many conversations.

20 [REDACTED]: I just want to remind the witness not to
21 get into SES names. We're not going to express this on
22 the record.

23 Mr. Somers: Yeah, I'm not asking him for the names
24 in that meeting.

25 BY MR. SOMERS:

1 Q Apart from the meeting, do you recall any
2 discussions about the 1001 and whether Flynn should have
3 been warned about 1001 as part of the meeting -- I mean
4 as part of the interview?

5 A No, I don't.

6 Q Any other discussions about whether to alert
7 the White House counsel other than what occurred in that
8 meeting?

9 A I thought there were conversations either
10 between us and White House counsel or DOJ and the White
11 House counsel. If I'm not mistaken, that did occur. I
12 just don't know time frame when or if I were a part of
13 those. Those probably were above my pay grade. That
14 was probably director DAG and director AG.

15 Q Did you have any discussions with the DAG
16 Sally Yates about the interviews?

17 A I was present for conversations. My direct
18 chain of command wouldn't go to Sally. I was there.
19 There was probably once or twice a week at the
20 director's briefing that the AG, the DAG, and their
21 staff would come over and have a follow-on briefing.

22 Some of these conversations took place in that
23 setting, but at times the DAG or agent would go off in a
24 sidebar with the director. I don't recall in what
25 format that would occur, those conversations would

1 occur.

2 Q Do you recall any conversation, any
3 discussion where Sally Yates expressed the sentiment
4 that either Flynn or Trump White House or incoming Trump
5 White House should have been defensively briefed about
6 Lieutenant General Flynn's phone conversations?

7 A I don't recall that.

8 Q Do you recall any concern being raised by
9 Sally Yates about the interview?

10 A Yeah. So to answer the question more
11 appropriately, everything you're saying rings true with
12 me, but, again, I don't recall. This was in the news
13 for a lot, so I don't recall. Everything you said, I
14 would basically be able to say, check. Got it. Got it.
15 I just don't recall if I was aware of it in January 2017
16 or at some point post retirement. So it sounds
17 familiar, Zach, but I'm not sure if I knew about it in
18 2017. It's likely that I would have. I can't say for
19 sure.

20 Q In that January time period, you recall being
21 involved in any discussions where it was DOJ has this
22 opinion about what we should do with Flynn; we FBI have
23 a different opinion? Do you recall any discussions like
24 that?

25 A Yeah, I vaguely remember Sally Yates was

1 not -- did not feel we were going far enough, but I
2 don't recall. I don't recall the specifics about that.

3 Q Were you involved in any discussions
4 regarding the Logan Act as it relates to General Flynn?

5 A No.

6 Q Are you familiar with the Logan Act?

7 A Yeah.

8 Q Did you have any discussions in that time
9 period at all about the Logan Act?

10 A I'm sure I would have. I don't recall the
11 specifics.

12 BY MR. BAKER:

13 Q It doesn't have to necessarily be in the
14 instant case, but you have a good, rich investigative
15 background on both the criminal side and national
16 security side. If you recall, at any time in your
17 career where you're going to do an interview of a
18 subject, is it unusual to have a meeting with maybe
19 another agent that you're going to take on the interview
20 with you and kind of sketch out what you hope to get out
21 of the interview, what courses of action or what kind of
22 responses you think that the subject of the interview
23 might give and then what weaknesses or vulnerabilities
24 you might be able to leverage to get a confession or
25 whatever the goal of the interview is?

1 Bottom line: Is it unusual to have a pre-interview
2 meeting with your co-case agent to kind of discuss a
3 strategy on an interview?

4 A It's not unusual, no.

5 Q And is it unusual going into an
6 interview -- and this would include your OPR or your
7 internal interviews.

8 Is it unusual for the interviewers to know more
9 about what the subject has done than the subject
10 necessarily knows?

11 A It's not unusual. It's actually quite common
12 to have -- you go into an interview hopefully with a
13 position of power and know more about what's going on so
14 that you can then ensure the truthfulness of the
15 interviewee.

16 Q And would it be uncommon to have an alternate
17 interview strategy? If you think you're going to get a
18 confession or something and something different happens,
19 that you have kind of a roadmap determined in advance
20 how you will navigate the interview if in fact you don't
21 get what you initially expect?

22 A Yeah, I suppose. I wouldn't articulate that
23 interview's a free-flowing process. I mean, you go in
24 with information you have and you use your ability to
25 communicate and the interview kind of takes on a life of

1 its own, and so likely, although you planned for the
2 interview to go a particular way, it very rarely goes
3 the way you planned. So you would just base it on the
4 responses and kind of the relationship that's been
5 developed.

6 Q Right. So aside from being in the moment and
7 responding organically to what you're getting out of the
8 interview, it wouldn't be unusual to have some maybe
9 very high-level thoughts about, well, if they confess to
10 where the body is, we'll go this way; if they don't, we
11 may have to go that way?

12 A Yeah. I mean, confession is a strong word
13 for a noncustodial interview, but I mean if you -- you
14 know, you go into an interview, particularly a
15 high-level interview like this, you'd hope to have some
16 goals or objections from that interview.

17 It could also not just be between other cases. You
18 would likely be communicating with DOJ or whoever the
19 prosecuting entity was about what the overarching goal
20 of the interview is.

21 Q Okay. And I think that's a very important
22 point with me. You wouldn't go into an interview, and
23 especially maybe not a high-level, high-profile
24 interview, without any kind of preparation. You would
25 at least sort of sketch out what the goal of the

1 interview was, what you might do if the interview
2 terminated. You would at least have some kind of
3 roadmap to keep things going towards the direction for
4 whatever purpose the interview is?

5 A You're speaking hypothetically. I would hope
6 not, but it probably happens. Hypothetically that's
7 what you would want your case agents to do. I don't
8 know it happens all the time, but you are laying out the
9 ideal roadmap for an interview. Whether or not it
10 happens all the time or infrequently or how often, I
11 couldn't tell you. I know how I did it as an agent, but
12 I would expect when I was running a case, although not
13 the supervisor on the case, but your point is taken
14 that's ideally the way it should be done.

15 Q So it's ideal, so it's not unusual. It might
16 be unusual that people do the ideal all the time, but it
17 wouldn't be unusual for somebody to do those things that
18 make a good interview; i.e., having some sort of
19 roadmap?

20 A Correct.

21 BY MR. SOMERS:

22 Q I think the term you used was goals and
23 objectives going into an interview, what the goals and
24 objectives were. Were goals and objectives discussed at
25 all in these meetings with the deputy director and the

1 director in terms of the Flynn interview?

2 A I don't recall enough about any topic
3 associated with Flynn or the interviews to give you any
4 clarity on what was discussed, any specifics, no.

5 Q To switch -- a couple more subjects I want to
6 cover. Just briefly, do you know how the Crossfire
7 Hurricane team was selected?

8 A I do not.

9 Q All right. Let's talk about were you aware
10 that Lisa Page and Pete Strzok were having an affair?

11 A No.

12 Q Were you aware they had a personal
13 relationship?

14 A I was aware that they were associates, close
15 associates who worked together very closely, yes.

16 Q So Bill Priestap never raised to you some
17 sort of improper personal relationship between Pete
18 Strzok and Lisa Page?

19 A Bill Priestap didn't raise to me concerns
20 that Lisa Page and Pete Strzok were having an intimate
21 relationship. Bill Priestap raised to me concerns that
22 Lisa was taking information and going to the deputy.

23 Q Taking information from Strzok?

24 A Yeah. In other words, Lisa was part of some
25 of the investigative processes. Instead of being a part

1 of that process, she was not following the chain of
2 command. There was concern about that.

3 BY MR. BAKER:

4 Q And does that cause problems for you
5 specifically as an EAD in the chain of command, that
6 you're being bypassed?

7 A Yeah. I had conversations with both Pete and
8 Lisa about that, but I did not know the intimate
9 relationship behind that.

10 Q In the last round, you had indicated that the
11 evolution of counterintelligence cases at the Bureau has
12 a low threshold for that because there's been things
13 that have been missed and, you know, in hindsight
14 there's identifiers that kind of alert you to things
15 that maybe need to be looked at closer than historically
16 wouldn't.

17 In the list of things that cause potential problems
18 in counterintelligence investigations, especially
19 espionage type investigations, is extramarital affairs
20 something that can be problematic for somebody working
21 in counterintelligence, a vulnerability? Does it create
22 that?

23 A Are you asking me as the subject of an
24 investigation or as the investigative team?

25 Q Does two people that work in

1 counterintelligence investigations and have access to
2 things that hostile intelligence services would be
3 interested in, does the fact that two people involved in
4 those types of investigations for the FBI, does that
5 create a vulnerability for them to be targeted by
6 hostile intelligence service?

7 A Hypothetically, I'm not sure I'm following
8 your train. If your statement is that in the FBI if two
9 individuals are having an affair, an extramarital
10 affair, if they create a concern from an investigative
11 perspective, I'd say no. Could that potentially be
12 exploited by a hostile foreign government? Yes.

13 But I think any extramarital affair -- if I was
14 having an extramarital affair with somebody in my
15 office, regardless of whether I was part of an
16 investigation or not, that's one of the classic
17 exploitation signs, so I -- classic exploitation
18 elements.

19 I'm not sure what you're getting at. If your point
20 is that because Lisa and Pete were having an affair, did
21 that make them vulnerable or -- I would say probably
22 no -- to this investigation? Was it inappropriate?
23 Yes. Do I think necessarily that it negatively
24 influenced the investigation? I don't know that I would
25 agree with that.

1 Q But did it negatively impact any aspect of
2 the investigation? I think you said earlier they were
3 bypassing the chain of command and going to each other.
4 Does that relate to their --

5 A So I don't think that they were bypassing the
6 chain of command because of their relationship. So
7 Lisa's job was to be an advocate for the deputy director
8 and to provide him information. As I counseled Lisa on
9 one occasion, that's her job, to support the deputy
10 director. She could do it one of two ways: First way
11 was to go and build relationships with the team and work
12 through the team and push that information that needs to
13 get to the deputy directly, which is through Bill and
14 through me, or she could do it an alternate way and make
15 enemies and go run straight to the deputy with that
16 information and create enemies, which is the way she was
17 doing it.

18 My counsel to her was support the deputy, which is
19 your job, but do it in a way that's not creating
20 friction with the larger team, which is what she was
21 doing.

22 So what you're talking about is the briefing
23 structure. I don't know that it was affecting the
24 integrity of the investigation itself. It was certainly
25 causing problems on the seventh floor or with the chain

1 of command that she was briefing. Does that distinction
2 make sense?

3 Q Yeah. I understand. I guess I'm still a
4 little confused on this whole idea of extramarital
5 affairs. Isn't that part of the insider threat that
6 there's warning signs for? I mean, I've heard in other
7 interviews, because this topic has obviously come up
8 because that was the part that the media focused on so
9 much and the texts and all.

10 I'm a little confused by the different responses
11 we've gotten. We've gotten everything from as long
12 they're doing their work, the fact they're having an
13 affair isn't really any consequence, and I mean every
14 other kind of variation of it.

15 Is it something the Bureau would put an end to
16 because they're working on some of the biggest cases in
17 the Bureau, or is it truly that it's not a big deal?

18 A So we're in a building where I think it's not
19 unusual to have extramarital affairs with many folks.
20 It's a reality that we live in today. Is it
21 appropriate? No. It can be problematic, yes. If we
22 found out about it, would we shut it down and remove
23 those people? Absolutely, yes. Does it happen probably
24 a lot more frequently? Absolutely, yes. In the
25 totality of those times it happens, does it result in

1 catastrophic results?

2 So I think you're probably getting a wide variety of
3 answers because people have a wide variety of opinions
4 to it. I think most people would argue that Pete was
5 married and Lisa was married and it was inappropriate.
6 But, you know, unfortunately, personal lives that people
7 lead are confusing at best. I think we're -- when it
8 became inappropriate from the FBI's perspective is they
9 were working on the same case, in the same chain of
10 command, and they used Bureau communication devices to
11 have conversations.

12 Outside of that, whether Pete and Lisa were having
13 an affair is probably appropriate for their spouses and
14 their families, but, you know, unfortunately, we live in
15 a world this happens probably more frequently than we
16 are willing to admit, as you can see with the media over
17 the last couple years in the private sector and public
18 sector.

19 Q I understand that. But I guess the part I'm
20 still confused on is why would they be allowed to stay
21 in those types of investigations as opposed to being --

22 A I'm not aware that anybody -- it first came
23 to light to me that they were having an intimate affair
24 when -- in fact, I didn't know about it, but all of a
25 sudden I saw -- I heard that Pete was removed. I still

1 didn't know why Pete was removed. It was several days
2 later that I found out.

3 So I'm not aware of anybody from the director on
4 down certainly to me at my level that Pete and Lisa were
5 having an intimate affair. If they were, absolutely I
6 would have shut that down, but I didn't know that. If
7 somebody has testified to or told you they knew that, it
8 wasn't communicated to me as far as I know, and it
9 certainly wasn't communicated to Andy or the director.

10 BY MR. SOMERS:

11 Q Bill Priestap testified before the House
12 Judiciary Committee that he was at least told that they
13 were having an affair and then spoke to both of them
14 about it or something along those lines. I'm not sure
15 he knew for sure they were having an affair. I'll
16 represent his testimony was that.

17 But I will represent that he was at least aware that
18 there was, say, a rumor that they were having an affair
19 without the benefit of his testimony in front of me
20 right now, but he never raised that to you?

21 A He never raised that to me. And look, again,
22 as somebody who now leads a very large
23 organization -- let's be clear -- as a leader you
24 provide strong guidance and counsel. When you hear
25 rumors, you take action to the extent the rumor's a

1 rumor right.

2 So if I'm in Bill Priestap's shoes and I hear an
3 uncorroborated rumor, I'm certainly going to advise my
4 director, Pete Strzok, hey, there's a rumor out there.
5 Maybe you want to take more caution in how you meet or
6 the relationship you have with Lisa so that there's no
7 view that there's a relationship. But I don't know if
8 that's the tack he took or not.

9 Q You mentioned a few minutes ago that you -- I
10 think the word you used was counseled Lisa Page on going
11 around the chain of command. Do you know if that
12 counseling worked? Did you see any difference in her
13 subverting the chain of command?

14 A It's hard to say where we were at. I mean,
15 we had long conversations. She said she got it; she
16 understood it. I don't know that there was a -- it's
17 not a one or the other. So I don't know that it
18 necessarily influenced her and she started to do a
19 better job. I can't comment as to whether I saw or
20 noted a difference or not.

21 Q Let me read to you from pages 64 and 65 of
22 the IG Report. I think it's page 64. Priestap also
23 told us that he originally wanted to assign
24 investigation to a deputy assistant director, DAD, other
25 than Strzok because, although he had confidence in

1 Strzok's counterintelligence capabilities, he had
2 concerns about Strzok's personal relationship with Lisa
3 Page affecting the Crossfire Hurricane team. According
4 to Priestap he told Steinbach about his concerns and
5 Steinbach was supportive of his decision to remove
6 Strzok from the team, but his decision was overruled by
7 McCabe.

8 First, I think you said you recalled Priestap --

9 A I don't recall it.

10 Q You don't recall him raising the personal
11 relationship with you?

12 A No, that's not true. I recalled Bill raising
13 concerns about Lisa's circumventing the chain of command
14 and doing it because of the information that she and
15 Pete were working on together. I don't recall Bill
16 telling me or asking me or advising me that he wanted to
17 remove Pete from Crossfire Hurricane. I don't deny that
18 it may have happened. I just don't recall it.

19 Q Did you at any time want to remove Pete from
20 Crossfire Hurricane to give him I think -- give me one
21 sec here.

22 Mr. Baker: More of a broad-based experience,
23 traditional.

24 BY MR. SOMERS:

25 Q The quote is traditional DAD experience.

1 That's on page 64 of the IG Report.

2 A So I don't recall saying that, but it sounds
3 like something I would say. I did have a concern
4 because Pete was too narrowly focused on -- he was
5 largely acting as super case agent, and my thought was,
6 you know, he was probably our most experienced and
7 well-respected senior executive in counterintelligence,
8 so I thought he would be the heir apparent to Bill when
9 Bill left.

10 So it sounds like something I would say, but I don't
11 recall saying it. I don't recall telling my boss, hey,
12 you should remove Pete from Crossfire Hurricane or he
13 should not be a part of Crossfire Hurricane.

14 Q So then this last part of the
15 sentence -- sorry -- or the second sentence, "According
16 to Priestap, he told Steinbach about his concerns and
17 Steinbach was supportive of his decision to remove
18 Strzok from the team, but his decision was overruled by
19 McCabe."

20 So I guess that's two questions. One, were you
21 supportive of the decision to remove Strzok from the
22 team, and the second, were you overruled by McCabe?

23 A Yeah, I don't recall. I don't recall that I
24 had a conversation with Bill about removing Pete from
25 Crossfire Hurricane, and I don't -- nor do I recall

1 asking or making a request of Andy McCabe, the deputy
2 director, to remove Pete from Crossfire Hurricane.

3 I'm not refuting Bill's testimony. I just don't
4 recall it.

5 BY MR. BAKER:

6 Q But it wouldn't be unusual for you as an
7 executive, or even all the way down to an SSA, to
8 encourage career development or developmental
9 opportunities for somebody that you see as a rising star
10 or somebody that's on the career development path. It
11 wouldn't be unusual to say this person's got talent;
12 they need to also get experience in this or it's time
13 for them to do inspections or whatever. That would not
14 be unusual?

15 A Yeah, it would not be unusual. I knew Pete a
16 lot longer than I knew Bill, so I had a good
17 relationship with Pete. I thought he was a very
18 aggressive counterintelligence agent, so I recall having
19 conversations with him, developmental conversations with
20 him about his future, to include to be careful that his
21 relationship with Lisa, that he was not -- information
22 was flowing up correctly, but I don't recall
23 specifically this conversation you've referenced. I
24 don't deny that it might have happened. I just don't
25 recall.

1 Q It sounds like -- in the last round someone
2 asked about your assessment of Mr. Priestap. It kind of
3 sounds like your assessment of Mr. Strzok is he's a
4 competent intelligence agent?

5 A Absolutely.

6 Q And maybe more than competent.

7 A And he'd been involved in a number of
8 important counterintelligence investigations. In fact,
9 Pete and I worked a matter in Guantanamo Bay many years
10 before. I was the counterterrorism supervisor, and he
11 was the counterintelligence supervisor. He had a strong
12 sense investigatively.

13 Q And in your opinion, he was somebody that had
14 potential or would continue to move up through the
15 ranks. I think you said you thought he might be the
16 heir apparent to Mr. Priestap.

17 A Right. I did, yes.

18 BY MR. SOMERS:

19 Q Just for a second here -- I think we're
20 almost done, but we discussed the first time in our
21 first round your daily briefings with -- or Priestap
22 characterized the daily briefings as the Carter
23 Page -- you get the FISA on Carter Page. Were you being
24 briefed at all on, like, what you were learning from the
25 Carter Page FISA collection?

1 A Not on a daily basis. I'd say probably I was
2 given periodic updates into the larger Crossfire
3 Hurricane. Some of that may have included Carter Page
4 information; some of it may not have.

5 Q Do you recall that you were being told they
6 were learning stuff; this FISA is valuable?

7 A I don't recall.

8 BY MR. BAKER:

9 Q In hindsight, having done a career and moved
10 on -- it sounds like it's pretty significant important
11 things in your post period of life -- if you had to make
12 suggestions or changes to the FISA process, is there
13 anything that stands out based on your experience and
14 where you've been in the FBI?

15 It sounds like there's a lot of moving parts in the
16 FISA process and there's a lot of personnel movement in
17 the FBI, and people go on to check a box here and there
18 as they continue their career progression. Is there
19 anything that should be changed so there's a more
20 developed workforce that has an expertise in these
21 matters rather than coming in and trying to play catch
22 up to learn a process that sounds kind of complicated
23 and then to move on to the next thing only to have it
24 backfilled with somebody that is right back to negative
25 experience or little experience?

1 It just seems like there's a constant cycle of
2 people coming in and out and a training that doesn't
3 seem like it's always working, and the Woods File issue
4 is a specific example.

5 I would just be curious what you have in hindsight
6 if you were asked to come in and fix the FISA
7 process -- because it's not just this case where there's
8 been issues with FISA. In recent times, the IG's found
9 other audits to be deficient, and, I mean, I know from
10 personal experience going way back before this, there's
11 always been, because of the back-and-forth between
12 headquarters and the field and because of all the
13 different moving parts and DOJ seems to be more involved
14 in these types of cases than they necessarily are, just
15 bottom line there's a lot of moving parts.

16 What could you suggest to be changed that would
17 eliminate some of the confusion maybe that the case
18 agents have? Is it more training? Is it keeping people
19 career tracked where they stay in counterintelligence
20 from the time they enter on duty? I'd like to hear from
21 you, what you'd fix. If you had thoughts on that, what
22 would you fix?

23 A Sure. So I think you bring together two
24 topics which I'm going to separate. The first more
25 simple one is the FISA process. So I would say that

1 while I was in the FBI I did not think there was a
2 problem with the FISA process. Clearly, there's been
3 some facets that have come to light that I -- I can't
4 say that I've read it closely because obviously I'm not
5 following all this stuff, but it's clear to me that
6 there's some mistakes that were made in the FISA
7 process.

8 So you fix that, much like my job now that I have,
9 through a strong government control process. So you
10 build an automation where you've got an ability to
11 monitor through controls, and you test and audit that
12 process. That would be my suggestion for FISA.

13 Your other assertion about movement of people, I
14 completely disagree with you, and I think people who
15 make comments about movement of FBI agents and turnover
16 at headquarters as a cause for concern are mistaken.
17 I'll use an example of the US military. Identify any
18 flag rank officer and ask that flag rank officer how
19 long he or she stays in a particular role. The role of
20 a commanding officer of the units, the squadron, a
21 battalion is a year. They successfully run the United
22 States Navy, Marine Corps, the Air Force, and the Army
23 with an up or out policy. You can't stay and maintain
24 and be a specialty 03 or 04 officer.

25 The FBI has a lot of specialists, and those are

1 GS-13 special agents. If you decide that's what you
2 want to do, the body of our workforce are those
3 specialists who do the job day in and day out. Now, if
4 you want to get into the management track and be a
5 leader, leaders need to be broad-based in their
6 experiences.

7 The fact that leaders go and spend two years here,
8 two years here, two years here is that a problem? It's
9 not a problem from a leadership perspective. You
10 certainly run out of time. You look at an FBI agent as
11 a 20-year or a second career opportunity, and most
12 agents retire at 50. You can run out of time to check
13 off blocks, but your argument and if you're asking me to
14 weigh in on my thoughts about leadership progression in
15 the FBI and that being part of the problem, I would say
16 absolutely not.

17 Q Do you think the mandatory retirement age or
18 the eligible retirement age on lower, do you think that
19 creates a vacuum of experience that results in an even
20 younger workforce without senior people to mentor them?
21 Do you think that is in any way wrong?

22 A So I had this conversation with Director
23 Comey on my last day, and, yes, I think the workforce is
24 in two different groups. FBI agents who remain journey
25 FBI agents who do entire career in field, they want to

1 retire at 50, I think it's fine.

2 Once you enter into the SES ranks, the fact that you
3 can retire at 50 creates a turnover that's not
4 appropriate. Look, I left at 50 because there were
5 opportunities available in the private sector and I had
6 a family. The US government does not pay executives in
7 government to stay in government, and there's
8 unfortunately a turnover. I think that the FBI should
9 mandate that SESers remain SESers. If you decide to,
10 say, be an SAC, you need to stay a few years longer to
11 create more consistency.

12 So I think you need to split the workforce. The
13 working agent, let that agent retire at age 50.
14 However, if you enter into the executive ranks, you need
15 to maintain some consistency. They should not be
16 allowed to leave at 50. So what do you have to do? You
17 have to incentivize them. Congressmen and, quite
18 frankly, the administration have done the opposite.
19 They assert that executives in government are overpaid.

20 I can tell you that if you go out in the private
21 sector and you get four, five, six times your SES
22 salaries. So clearly there's a discrepancy. And so you
23 see that flight, that needs to change. Now, the other
24 thing that can happen, you should bring back senior
25 executives in the FBI like myself who've been in the

1 private sector to jump into the EAD ranks. I do think
2 there is an organizational leadership structure that
3 needs to be taken and needs to be looked at from the
4 leadership ranks of the FBI.

5 Q And you think that --

6 Ms. Zdeb: Excuse me, Art. I think it's been about
7 an hour, and I'm mindful of Mr. Steinbach's hard stop at
8 2:00. I don't think that we will have much more than a
9 half hour of questions, but I'm curious whether
10 you're --

11 Mr. Baker: I'm done except for 15 more seconds.

12 BY MR. BAKER:

13 Q Do you think that any of what you've just
14 articulated as potentially deficiencies in the Senior
15 Executive Service retention, having to stay on, do you
16 think that contributed to any of the FISA mishaps
17 because there is such a young workforce?

18 A No.

19 Q Do you know what a green SAC patch is?

20 A Yes. I have one.

21 Q And what exactly is that?

22 A A contractor or the ability for former
23 employees to get in, that badge?

24 Q That one.

25 A Do I know what it is? Yeah. I have one.

1 Q And does every former employee get one, or
2 what do you have to get a badge that allows you to get
3 in after you've retired?

4 A Well, any former employee who takes on a role
5 as a contractor of course could, for specific purposes,
6 could get one, but often senior executives are allowed
7 to keep access to go back and provide -- the idea is to
8 as necessary provide expertise or assistance, et cetera,
9 et cetera.

10 I've gone back on a number of occasions and provided
11 briefings on topics, whether it's to finance or
12 criminals. It's just a way for former executives to
13 stay in the loop. I know for instance the former ADD,
14 Tom Harrington, comes back and consults quite often on
15 strategic topics, on finance topics.

16 Q So this is a badge you keep in perpetuity, or
17 is it time limited?

18 A No, it's time limited. It's like a -- if
19 your clearance is five years -- I have a five-year
20 clearance. At the end of those five years, I would have
21 to go and renew it to keep it, but I have one. So I
22 suspect if I want to keep it, I have to go back and have
23 another security clearance and polygraph to keep it.

24 Mr. Baker: Okay. Thank you.

25 (Recess.)

1 BY MS. SAWYER:

2 Q I just wanted to ask a few questions related
3 to the Steele dossier. You had, in talking to my
4 colleagues, indicated that at some point it came into
5 your possession and you had had a copy of it, and you
6 couldn't recall specific timing. I think you said you
7 thought it might have been the summer of 2016.

8 And I just -- in the Inspector General's Report on
9 page 100, it indicates that, and I'll just quote that
10 second paragraph, which just says, "On September 19th,
11 2016, the Crossfire Hurricane team received the Steele
12 reporting for the first time when Handling Agent 1
13 e-mailed SSA 1 six reports for the SSA to upload."

14 So it just sounds from that like the folks at
15 headquarters who were handling it didn't have it until
16 September.

17 A Yeah, so that's correct. So I was wrong. So
18 then after -- so clearly I had it, and I got it from
19 Bill. I asked Bill, hey, can I see a copy of it. So
20 whenever it came to headquarters, eventually it came to
21 be at my desk.

22 Q And I ask in part just because there have
23 been sometimes claims, not accurate claims, but claims
24 that the Steele dossier was part of the reason that the
25 Crossfire Hurricane investigations were opened in the

1 end of July, and the Inspector General actually found
2 that that wasn't the case, that the Steele dossier had
3 played no role, and I just wondered if your recollection
4 was consistent with that finding.

5 A I don't recall to be honest with you.

6 Q But certainly you don't have any reason to
7 believe that was --

8 A No.

9 Q The Steele dossier has played a very large
10 role in a lot of the public dialogue around this, and so
11 I'm going to describe that dossier as opposition
12 research on a candidate because it did derive -- a
13 company that was working with and campaign hired
14 Mr. Steele and asked him to do research and that's where
15 it derived from.

16 I'm kind of curious. I don't think it's probably
17 the first time what was opposition research came into
18 the FBI's possession. I think it's certainly not the
19 last because right now we know that information being
20 gathered by Rudy Giuliani is being passed to none other
21 than the Attorney General for possible consideration as
22 to whether he should be investigating.

23 So I'm not asking you for a political opinion at
24 all. I'm just asking you for based on your expertise
25 and experience, is it -- it's been suggested that with

1 regard to the Steele thing, it should have been ignored
2 completely by the FBI. Do you agree with that
3 assertion?

4 A No.

5 Q So how should it have been handled?

6 A So you handle the source information like we
7 handle all source information, with healthy skepticism
8 as to motivations, sourcing, and subsourcing. It's not
9 different -- again, it's not different from being on the
10 streets in Chicago and talking to a corner drug dealer
11 who is providing information on a rival drug dealer,
12 right. Because there's likely motives behind sources
13 offering. Very rarely does a source just provide the
14 information as in good conscience. It happens, though.

15 With all sources, you take a look at it, and you
16 apply healthy skepticism, and you then go and break that
17 apart. A lot of times source information is only
18 partially correct. So you'll have bits and pieces that
19 are accurate and bits and pieces that are false. You
20 then go and you need to investigate to try to develop
21 more information to run down those leads.

22 Q And from your perspective, you weren't -- I
23 just assume you weren't closely involved in any efforts
24 that the FBI and others took to assess the sourcing, run
25 down the leads. You were relying on other individuals

1 to do that?

2 A Yeah. That wouldn't be my role as an EAD.
3 I'm aware that it was going on, but it would have been
4 part of the normal investigative process.

5 Q And you are aware, at least sitting here
6 today, that information contained in some of the Steele
7 reporting was included in the application submitted to
8 the FISA board for Carter Page; is that accurate?

9 A Yeah, I'm aware of it. I don't know that I
10 necessarily -- I probably assumed it with the FISA
11 application. I know now that it's all over the media of
12 course.

13 Q Are you aware whether or not the FBI relied
14 on any of the Steele reporting beyond the application to
15 the FISA board for Carter Page in any of its
16 investigative steps?

17 A Can you say that again, please?

18 Q Yeah. It wasn't a very good question. Let's
19 try again.

20 Are you aware whether or not the FBI relied on the
21 Steele dossier in terms of its investigation of George
22 Papadopoulos?

23 A So I can't answer that question specifically
24 other than I would assume so and hope so. I mean, I
25 don't -- I didn't look at the case file, so I can't tell

1 you step by step what was involved in terms of the
2 investigative process. But I would hope that all
3 information that was used as a part of the
4 investigation, including the Steele dossier so to speak,
5 regardless of where it came from should be part of the
6 investigation.

7 Q So to the extent there is information
8 available to the FBI, what I hear you saying is, and I'm
9 going to use a stronger term than you've used, it's a
10 potential dereliction of duty not to at least consider
11 it?

12 A In any investigation, criminal and national
13 security, you pull in all information, whether that's
14 good, bad, positive, negative intelligence, all a part
15 of your picture you paint.

16 Q And have you looked at the FISA application
17 vis-à-vis the description to the court as to the source
18 of that information?

19 A I have not.

20 Q I want to turn -- so you don't have an
21 opinion as to whether or not how the source and its tie
22 to a political campaign was provided to the court -- how
23 it was described to the court?

24 A Yeah, no, I don't.

25 Q I want to turn just for a moment -- there was

1 a lot of discussion about both Lisa Page and Peter
2 Strzok and their personal relationship.

3 With regard to Peter Strzok's actual performance,
4 did you note anything in his performance that caused you
5 concern as to how he was conducting the Crossfire
6 Hurricane investigation?

7 A No.

8 Q And, presumably, had you noted anything in
9 his actual performance that was troubling, you would
10 have sought to either correct that or remove him for
11 performance-related reasons?

12 A Yes.

13 Q Did anyone else ever note to you or complain
14 to you about Mr. Strzok's actual performance on the
15 case?

16 A Other than what was mentioned earlier, no.
17 The conversation that Bill stated he had with me about
18 his concern about Lisa and Pete's relationship, I don't
19 recall that conversation, but I don't specifically
20 recall anybody commenting or having concerns about
21 Pete's performance as a leader. The only person who
22 would have that conversation with me would be Bill
23 Priestap, his boss.

24 Q And you don't recall any conversation where
25 Mr. Priestap expressed to you concerns about how

1 Mr. Strzok was conducting the investigation?

2 A I don't.

3 Q And with regard to Lisa Page, was she a
4 decision-maker in any way with regard to the
5 investigation?

6 A She was not.

7 BY MS. CALCE:

8 Q So I'm just going to ask a few questions
9 about the January 24th interview of Michael Flynn. Were
10 you involved in that interview?

11 A No.

12 Q Were you aware that it was going to take
13 place?

14 A Yes.

15 Q You know, there have been -- you were asked
16 earlier whether it's unusual for the FBI to talk about
17 the goals for -- for maybe two case agents to talk about
18 the goals for an interview before that interview takes
19 place. Is that correct or is that unusual?

20 A The case agents would do the interviews.

21 Q Right.

22 A Yeah, it's not -- it's a hypothetical
23 question, but, yeah, it's not unusual for two case
24 agents to collaborate and kind of figure out the game
25 plan for the witness interview.

1 Q And as part of that, they might, you know,
2 consider multiple approaches to an interview?

3 A Sure.

4 Q And I think you said that -- well, not in the
5 context of this, but it's possible that somebody might
6 suggest -- play devil's advocate, say -- might play
7 devil's advocate, might say, you know, we should think
8 about different approaches. This might work. This
9 might not work. This is a risk.

10 A Sure.

11 Q So there have been some accusations in the
12 news -- you might have heard -- with regard to the Flynn
13 case that the FBI's goal was to entrap Flynn, to kind of
14 intentionally get him to lie. Now, I've always
15 understood entrapment to involve some element of
16 trickery, to involve coercing a crime by defendant who
17 might otherwise not be predisposed to commit one.

18 What is your understanding of the conduct that would
19 constitute entrapment?

20 A Yeah, you're absolutely right. So entrapment
21 is a strong term. Essentially, if I'm not predisposed
22 to commit a crime, somebody comes in and tricks me or
23 coerces me to commit that crime, that's entrapment.
24 Getting somebody to make a statement is not entrapment.

25 In fact, I'll take it a step further. Often when I

1 interview subjects, I talk to them and use a variety of
2 ways to get them to admit or make statements.

3 Q And is it ever entrapment to simply ask a
4 question and give the witness the opportunity to tell
5 the truth then?

6 A No.

7 Q And if they lie in response to your question,
8 is that entrapment?

9 A No.

10 Q And to the best of your knowledge as you sit
11 here today, did any FBI employee coerce Mr. Flynn into
12 lying about his discussions with a foreign official?

13 A No.

14 BY MS. SAWYER:

15 Q A quick follow-up. I just can't recall from
16 one of my colleagues who was speaking with you whether
17 or not you recall what triggered the decision to
18 interview Lieutenant General Flynn.

19 A I don't know that I'm a hundred percent sure.
20 I believe it had to do with the conversations that were
21 picked up --

22 [REDACTED]: I'm going to instruct the witness to be
23 careful about names being used.

24 The Witness: Yeah, I think that the intelligence
25 gathering process would be -- I'm sorry.

1 I believe that the reason for our decision to
2 interview him was because he was picked up on an
3 intelligence-gathering platform.

4 Ms. Sawyer: Can we go off the record just for a
5 second?

6 (Discussion off the record.)

7 The Witness: So we gathered information in the
8 course of our investigation that necessitated us going
9 and interviewing General Flynn to obtain more detail on
10 that information.

11 BY MS. SAWYER:

12 Q So, again, I'm going to ask you a few
13 questions that are in a relative vein of hypothetical so
14 as to not get into any sensitive information. I just
15 want your sense.

16 As a -- certainly as a counterintelligence matter,
17 if the FBI was in possession of information that
18 indicated that an incoming National Security Advisor had
19 lied to the vice president about his interactions with a
20 foreign government, what kinds of concerns
21 would -- might that raise?

22 A I think that's probably too political for me
23 to answer. I mean, I think if any individual,
24 particularly in a position of trust in government,
25 withheld or concealed information or relationships with

1 a foreign government, particularly an adversarial
2 foreign government, that's a problem, and that's a very
3 concerning behavior pattern.

4 I won't comment as to whether an incoming National
5 Security Advisor lied to the vice president. I mean,
6 it's more of a political situation. Withholding
7 information regardless of who it's to would have been a
8 concern to me.

9 Q And I am honestly not trying to get you to
10 make a political statement. I'm happy to alter the --

11 A I just don't want to get into --

12 Q Understood. I'm just trying to get a sense
13 of, you know, there have been allegations that there was
14 no legitimate reason to be questioning Lieutenant
15 General Flynn.

16 A Yeah, that's wrong. Absolutely.

17 Q And can you explain why that would be true,
18 why he should have been questioned?

19 A He's the incoming National Security Advisor,
20 and information was identified that was concerning for
21 us. He's in a particular position of trust with access
22 to very sensitive information. That is absolutely
23 appropriate.

24 Ms. Sawyer: Give us a minute, and we'll just make
25 sure that we're --

1 So I think we are finished with our questioning. We
2 appreciate you taking the time and coming in and
3 answering questions that we have. I don't know if you
4 had any --

5 ██████████: Before we close can record -- actually,
6 can we go off the record for a moment?

7 (Discussion off the record.)

8 BY MR. SOMERS:

9 Q Mr. Steinbach, in the first round we
10 discussed meetings that included the director and/or the
11 deputy director, yourself, and others, and we were going
12 through attendees at that meeting, and there were two
13 attendees that I didn't get to ask you about in the
14 first round. I'd like to ask whether they attended
15 those meetings.

16 Do you recall the discussion prior to that, just
17 first?

18 A Yes.

19 Q Do you know if -- I'm going to use their
20 identifiers from the Inspector General's Report.

21 Do you know if the OGC attorney was a participant in
22 those meetings?

23 ██████████: And, again, I'm going to instruct the
24 witness not to answer. We haven't received
25 clarification on whether we are allowed to go into

1 non-SES names here today.

2 BY MR. SOMERS:

3 Q And, for the record, I'm using his identifier
4 from the Inspector General's Report. I'm not asking you
5 his name.

6 Do you know if the person identified on page 82 of
7 the Inspector General's Report as the supervisory
8 intelligence analyst was at those meetings with the
9 director and/or deputy director?

10 [REDACTED]: And, again, I'm once again going to
11 object and instruct the witness not to answer because we
12 have not received clarification on whether the witness
13 can discuss non-SES names here today.

14 Mr. Somers: All right. I think that concludes the
15 interview, and I thank the witness for attending
16 voluntarily.

17 The Witness: You're welcome.

18 (Whereupon the proceedings were adjourned at
19 1:53 p.m.)

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ERRATA

