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

INTERVIEW OF: MICHAEL B. STEINBACH

FRIDAY, JUNE 12, 2020
WASHINGTON, D.C.
The interview in this matter was held at the Dirksen Senate Office Building, Room SD-226, commencing at 10:06 a.m.
APPEARANCES:

Zachary N. Somers, Chief Investigative Counsel
(Majority)

Arthur Radford Baker, Senior Investigative Counsel
(Majority)

Sara Zdeb, Senior Counsel (Minority)

Christina Calce, Counsel (Minority)

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Joan V. Cain, Court Reporter
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EXAMINATION BY
COUNSEL FOR THE MAJORITY: 9, 86, 147
COUNSEL FOR THE MINORITY: 56, 133
EXHIBITS
(No exhibits were marked.)
PROCEDINGS

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

Will the witness please state his name for the record?

The Witness: Michael B. Steinbach.

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

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

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

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

Ms. Calce: Christina Calce, counsel with the Senate Judiciary Minority staff.
Ms. Sawyer. Heather Sawyer, Senator Feinstein's staff --

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

[Redacted]: [Redacted], Office of General Counsel FBI.

[Redacted]: [Redacted], FBI Office of Congressional Affairs.

[Redacted]: [Redacted], FBI Office of General Counsel.

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

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

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

Do you understand that?

The Witness: Yes.

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

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

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

You should also understand that, although this interview is not under oath, you're required by law to
answer questions from Congress truthfully.

Do you understand that?

The Witness: Yes.

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

The Witness: Yes.

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

Do you understand this?

The Witness: Yes.

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

The Witness: No.

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

Do you have any questions before we begin?

The Witness: I do not.

Mr. Baker: Zach, I would add for the record, as Mr. Steinbach has alluded to, he's here voluntarily, and he's been very cooperative and very easy to work with in
arriving at this particular point in the investigation.

Mr. Somers: We thank you for your cooperation.

EXAMINATION

BY MR. SOMERS:

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

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

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

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

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

Q     Not the subject matter?

A     No.

Q     When did you retire from the FBI?


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

A     Executive Assistant Director of the National Security Branch.

Q     And what were your duties as the EAD for national security?
A As the Executive Assistant Director of National Security, I was responsible for four programs: Counterterrorism Division, the Counterintelligence Division, the Weapons of Mass Destruction Directorate, and the Terrorist Screening Center. I provided policy and strategic direction for the Director’s Office on those divisions and directorates.

Q And in this investigation we’re particularly interested in FISA. What was your general role — not about this specific FISA, but just with FISAs in general?

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

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

A Correct. It would not.

Q What if headquarters wanted a — headquarters, an agent or someone in the National Security Branch wanted a FISA?

A FISA followed the chain of command up through the assistant director and to the deputy director. The EAD would not, in general, be a part of the overall process. I would be briefed after the fact at times, but I didn’t see a flow of all FISAs coming from
national security side of the house.

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

A    Correct.

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

A    Correct.

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

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

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

A    I was not.

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

A    No.

Q    You ever signed a Woods Form?

A    No.
Q     Are you familiar with the Woods Procedures?
A     Yes.
Q     Can you speak generally as to what the Woods Procedures are?
A     Sure. In general, the Woods Process is designed to ensure that every part of the affidavit is factually grounded, and a Woods addendum or a document that accompanies the FISA is designed to be that burden of proof for the actual statement in a FISA application.
Q     Where'd you get your knowledge of the Woods Procedures?
A     From 22 years in the FBI working counterterrorism.
Q     I'm asking was there specific --
A     I'm sure I've had training. I've had training on FISAs over the years. I went from an agent in criminal programs, and after 9/11 I moved over to counterterrorism. From that point on, I was immersed in all counterterrorism processes on the national security side of the House, to include national security process such as FISAs, so I couldn't tell you where I learned about the Woods process or procedures.
Q     Does the National Security Branch do any training or advisories out to the field on the Woods Procedures?
BY MR. BAKER:

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

A     Correct.

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

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

After 2011 I did a temporary duty assignment to New
Delhi, India, which was my real first exposure to the counterterrorism side of the house.

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

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

At that point, for about two years, I was transferred to Tel Aviv, where I was the -- first the ALAT, the Assistant Legal Attaché, then the Legal Attaché to Tel Aviv responsible for Israel and Palestinian authorities. I spent a significant amount of time on the national security side of the house there.

When I returned from Israel, I spent about a year at the Washington Field Office back as a supervisor of a
violent crime and fugitive task force.

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

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

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

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

Upon completing that assignment, I came back to FBI headquarters as the Deputy Assistant Director of Counterterrorism. I held that position for about six months, and on the promotion of the current AD, I became the Assistant Director of Counterterrorism. I held that position for about two years, I suspect, and then from
there became the Executive Assistant Director of National Security.

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

A Yes, both field offices.

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

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

Q And, just briefly, your military experience?

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

Q So in your role as SAC in the two field offices, you would have had someone in the office that 16
would primarily be responsible for providing you with legal advice; is that correct?

A    Correct.

Q    And that person's title is?

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

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

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

If you'll recall 2009, 2010 time frame, when I was in ITOS 1, there was a fairly significant run-up in counterterrorism investigations. There was a number of emergency and routine FISAs that were authorized. I'd say probably ultimately my practical experience in FISAs was in counterterrorism during my ITOS □ time.
Q Okay. And then managerial experience with FISAs as SAC?

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

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

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

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

A Correct.

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

A Yeah. It's more of a blended approach. So when a case agent -- because the affi for a FISA is headquarters, not the field, so the initiation of the
FISA of course is in the investigation in the field, which you immediately need to interact with either ITOS, which I was the assistant section chief of, or ITOS, to work with that headquarters supervisor and the FBI legal entity, OGC for National Security, who would then interact with DOJ's at the time it was National Security Branch, and you would start to work that FISA process through.

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

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

BY MR. SOMERS:
Q You said review. What would review consist of?
A From my perspective?
Q Yes.
A As the SAC, I'd review --
Q  I'm sorry. As the ITOS [ ], as assistant section chief.

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

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

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

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

   It included National Security Branch lawyers who were assigned off site to ITOS, and then there were a number of DOJ unit chief to supervisory positions. At
the time there were two branches. There's a National Security Branch -- well, within the National Security Branch, there was the actual arm that actually did the FISA work in the field. There was kind of the review IO. They kind of did the work with FISC, or they were generally present. Half dozen to a dozen people.

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

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

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

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

A Sure.
Q And what would be factors that would come into play to get a renewal on it?
A Lack of predicate. Lack of predicate with proceeding with the investigation.
Q Is that because the FISA ran dry or it never produced anything?
A It could be all those things. I mean, you know, again, did about -- did this for two years, dozens on a monthly basis. There's all kinds of reasons why a FISA's no longer -- it's run its course, not able to continue to produce the required information to justify going back to the court for renewal. Perhaps the DOJ said, hey, look, we need this much more. Bring back the case to the field and ask for more. They need to do X, Y, Z.

It was an informal meeting to kind of stay abreast of the process.
Q On average, how many FISAs would be discussed in that meeting?
A A handful.
Q A handful?
A A handful on a weekly basis.
Q And anyone who attended these meetings, would they look at the Woods File?
A Sure. The headquarters supervisor would have
been part of the Woods File process. The DOJ attorneys would have been involved in the Woods File process.

Q So have you ever reviewed those files?
A I have. I will say yes, but I would say not in a -- just kind of review process. I don't have a lot of -- I wouldn't say I have a lot of experience on the Woods documents.

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

BY MR. BAKER:

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

Q And would that include reviewing subfiles, like Woods Files, for accuracy, compliance?
A I don't know how to answer that. It should -- intuitively a file should include all files to include subfiles, classified, nonclassified in the Woods File. I don't know that I can speak to how accurately in the field the supervisor actually pulled in the Woods File and reviewed it. That I couldn't comment on. We
had a process in place where DOJ would audit field offices periodically on Woods Files.

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

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

A There could be. I think it depends on how big the field office is. Generally, the supervisor conducts periodic file reviews where he reviews, just as you said, the case file, how the case is progressing, provides some guidance in terms of investigative assistance, what needs to be done, if there are any -- if the case has been open as a PI too long versus, well, we're not getting -- you know, we need to close this case. That would be documented in the file review and put in the agent's file.
Whether the ASAC reviewed every single supervisor's file, I think that's probably not necessarily a hard-and-fast rule, perhaps a procedure or a technique that some ASACs would use. I would be surprised except maybe in very, very small offices that that information passed the ASAC to the SAC.

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

A Yes.

Q -- counterparts from DOJ?

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

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

BY MR. SOMERS:

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

BY MR. BAKER:

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

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

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

DOJ was very concerned back in those days to make sure that they had a strong 100 percent record on FISA
applications. They spent a lot of time reviewing and prepping the application and evidence before it went to the court, and often they would work with the clerks in the FISC to ensure that they felt that it satisfied the burden of proof, so to speak, for that application before it went to the judge. There was a lot of back-and-forth.

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

BY MR. SOMERS:

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

A So all steps of a national security investigation -- in criminal investigations -- when I was working criminal cases, I could pretty much open up a case on my own, and all of the investigative steps resided with me and maybe my supervisor until I then
went and sought some type of application for search or some other process.

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

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

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

A: I'm talking about -- I want to use the word "evidence." I'll keep evidence for criminal side of the house. I'll look at it as they're all stated as all intelligence gathered in a national security investigation is pushed through headquarters. So from the inception of the investigation through conclusion,
all intelligence gathered in a national security investigation doesn't reside just in the field as it would in a criminal investigation. Headquarters is intimately familiar with that.

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

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

A     Yes.

Q     And so they review the Woods File?

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

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

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

BY MR. BAKER:

Q     Would the headquarter supervisor also be aware, monitoring, making sure the field case agent is aware of intelligence information, anything related to that FISA that is in other field offices?
A    Yes. The idea behind the national security investigative process and, you know, as a result of some of the lessons learned from 9/11, was to prevent stovepiping of intelligence information. So the reason headquarters is so involved, they are the conduit to the other agencies. So the robust sharing of information -- we have to make sure that if a field office in Los Angeles collects information, it doesn't sit in the case file of Los Angeles.

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

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

Q    So you had mentioned earlier that as this FISA application/FISA package makes its way through FISAMS and it may get, for lack of a better term, kicked back at some point for something to be beefed up or something to be more clarified, that headquarter SSA it sounds like would be the one most ideal to know where in
the field something might reside that would be responsive to whatever is deficient in the FISA.

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

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

Q I think I heard you correctly. You said something along the lines that one of the reasons that headquarters is involved is to be able to run, at least
to some extent, the information by the rest of the intelligence community on FISA?

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

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

They should have a broader level of experience in that subject to help guide the field. That's the kind of relationship.

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

Q Could there be a case where someone from
headquarters bounced something off from another intelligence community component and they'd say you're way off base on where you're going with this FISA or something like that?

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

There are lots and lots of robust conversations.

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

A I don't think -- to use your phrase "bounce off" I think misrepresents the process. That would assume that it's not there already.
I was the head FBI agent at counterterrorism. I reported to the assistant director, so as the assistant director, So to say bounced off would suggest that the information is not there. That information sits there all the time. 

Q And would you do any name checks? Like, for instance in this case, Carter Page has some relationship with I guess I would say a government agency, but not speaking to Carter Page specifically, but you want to get a FISA on a John Smith. Is that something you'd try and check out? Hey, is this guy actually, you know, some deep cover agent for the CIA?
A  Sure.
Q  Is that part of the process?
A  Part of the process in any investigative measure is to identify your subjects and then learn about those subjects. That includes checking other law enforcement intelligence community databases to see if there's any association or interaction to include work on this.

BY MR. BAKER:
Q  Would they tell you in that case there is a source, or would they tell you we have no information to your request?
A  I don't know if I could speculate. I think it would be an individual situation. I can't recall.
Q     So how it's handled might differ from --
A     It's very -- I would say it's very individual. And there's a process in place that should be followed in general, but there are, of course, exceptions to that process that unique circumstances may dictate following more discussion.

BY MR. SOMERS:
Q     To get more specifically to Crossfire Hurricane, when did you become aware that the FBI wanted to open the investigation that eventually became Crossfire Hurricane?
A     So that's not that straightforward of a question, because there was a number of -- I think there's a -- and I should probably caveat this from the start that a lot of what I know today -- it's been three years since I retired. It's been about four, four and a half years since I was involved in many of the topics regarding Crossfire Hurricane.

Fortunately, or unfortunately, there's been such a blitz in the media; there's been such a large amount of
noise that I have a hard time at times distinguishing, if somebody asks me a specific question, whether I knew that at the time or I've learned that from the onslaught in the media. So I'll try to tell you going forward I know for a fact that this is something I knew prior or if I can't recall how I knew it.

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

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

Then at some point, evidence was collected or intelligence was collected -- I should make sure I use the correct term. Intelligence was collected that started to formulate that certain people associated with the campaign may have inappropriate contact or
concerning contact with individuals. That's the formulation of Crossfire Hurricane.

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

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

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

At some point, I was briefed that there were
individuals involved. I don't recall how far in advance
of the July 31st opening, as you say, of the Crossfire
Hurricane investigation, but at some point, I was given
information. I just don't remember when.

Q     Do you know who initially briefed you on
this, gave you information?
A     I don't know who, but it would have been one
of three people.

Q     Who are those three people?
A     It would have been the AD Pete Strzok, the
DAD -- I'm sorry.
The AD Bill Priestap, the DAD Pete Strzok, or
Jonathan Moffa, who was the section chief over intel.
They were generally the ones that would come in and
brief the director, the deputy director, and myself and
others on those activities. And it would have been
likely, to be honest with you, that prior to that
morning brief Bill and Pete or just Bill would have come
into my office and said, hey, we've got something going.
This is what we're going to do.
I don't know if that happened, but that was often
kind of the flow of information.

Q     And did you know they were going to, like, I
guess formally open Crossfire Hurricane on the 31st?
A     I don't know that --
Q    Not the date.
A    Yeah. Yeah. I think that to your point, we
had talked about opening investigations on those
individuals I believe in that same forum in the morning,
so I want to say yes, but I can't be 100 percent sure.
Q    So there's an electronic communication that
formally opens the case. You were in the approval chain
for like actually -- whatever -- entering it, signing
off on or approving that electronic communication?
A    The EAD wouldn't be in the approval chain for
a case opening.
Q    Do you know who would have been in the
approval chain for that?
A    There's no -- if I recall, there's no set
standard in terms of who's in the approval. Certain
investigations or certain investigative techniques
require certain approval authorities, and so in terms of
the opening -- you say opening of a case?
Q    Yes.
A    The opening of a counterintelligence
investigation I think just requires -- it's a PI, a
preliminary investigation. It requires I think just
supervisory approval.
Q    So SSA?
A    SSA.
Q    Could you disapprove the opening of Crossfire Hurricane?

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

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

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

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

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

A    Of Crossfire Hurricane?
Q     Yes, of Crossfire.
A     So as I understand it, there were a number of
individuals that had contacts with individuals who were
connected to a foreign government.
Q     And what -- so -- okay. So the contacts with
a foreign government, what are you going to investigate?
Whether they actually have contacts? What they're doing
with those contacts?
A     Sure. Yeah. If tomorrow you go out and meet
with a Russian contact, we're going to open a
counterintelligence investigation on you to determine
what the relationship is. Is it just having a cup of
coffee, or is there something more to it? That's the
nature of counterintelligence investigations. That's
how you develop a source.
So if we see individuals having contact or
conducting suspicious activity with known individuals
that are known intelligence officers or associated with
that, that's the predicate. The predicate for a
preliminary investigation is very low by design.
Q     What was your understanding of who George
Papadopoulos was? He's the initial name mentioned in
the July 31st electronic communication.
A     Yeah, I don't -- I don't -- I can't give you
any details on what I knew about George Papadopoulos.
I'm not even sure I can walk you through, but I believe -- no, I can't.

Q     Same answer for Carter Page?
A     Yeah. I mean, the names and the associations are there, but to actually walk you through information associated with each individual, I can't tell you.
Q     But you definitely understood they were associated with Trump in some way?
A     Sure.
Q     So, you know, you talked about how you initially learned about it. How were you briefed/talked to about it going forward throughout the investigation?
A     In a similar manner. So periodic updates generally either privately from Bill Priestap, who's my direct report as the assistant director, or perhaps Bill with Pete. Probably even more frequently at the morning skinny-down meeting, so to speak, with Director Comey. Skinny-down meeting, again, was a larger meeting. Then most folks would be asked to leave except for the director, the deputy director, general counsel, the director's chief of staff, myself, and a few others.
Q     I'm just looking at a quote from the IG's Report here. It says, "Priestap said he'd briefed Steinbach nearly every day on the case and provided Comey or McCabe with updates on an as-needed basis."
So I'm just trying to -- I was looking at the first clause there, "Priestap said he'd briefed Steinbach nearly every day on the case." What did that consist of? Was that just you and Priestap?

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

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

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

Q     Were investigative steps discussed at these briefings?

A     It could be.

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

A     I may have been.

Q     But you can't recall?

A     I can't recall, no.

Q     Were you told before a FISA, hey, we're going
to go seek a FISA on Carter Page?

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

Q  Why?

A  Why?

Q  Yeah.

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

Q  Is it generally a reliable source of information?

A  Absolutely not.

Q  Do you generally think that the source is
going to be truthful, honest, a little bit more open?
Is that why you run a confidential human source?

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

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

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

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

So there's a number of reasons you may want to use
that information and then go back to the subject and
play it to him to help convince him to cooperate. So I would say the introduction of a confidential human source into an investigation is an initial step, a more refined step, but then have that source conduct tasks to include wearing a wire, depending on the circumstances.

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

A I don't recall.

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

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

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

A Not specifically.

Q Do you recall him saying, oh, that would be
treason to be involved with the Russians or collusion with the Russians?

A     Do I recall it? No.

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

A     No, I was not.

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

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

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

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

So am I aware of either there are statements against or for? I don't have any specific knowledge of what they said in their conversations with the source or what
was recorded so, no. But if you're asking me am I
surprised or do I have some level of disbelief that they
denied? That doesn't surprise me at all. As I
mentioned, that's fairly common.

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

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

Q I think you kind of answered this, but I'd
like to just ask it again. So in these meetings with
Priestap where he's giving you updates on Crossfire
Hurricane, did he ever ask your approval for any steps
in Crossfire Hurricane?
A     Not that I recall.
Q     And he wouldn't have needed to? He could have run with this?
A     I think that he would have been briefing me for strategic direction or approval, but not on specifics. From a specific investigative point of view, he wouldn't saying can I do step 1, 2, 3. That wouldn't be par for the course.

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

But I don't recall ever briefing a particular investigative step or Priestap asking me for approval on a specific investigative step.
Q     Did you ever have interactions with Pete Strzok on this?
A     Sure.
Q     Did he brief you on it?
A     Yeah. He briefed me generally when Bill
wasn't available. So when Bill was not available at the office and Pete was his acting for the day, Pete would come in and brief me, or if there was a morning briefing with Director Comey, often Pete was the briefer. Bill was present and I was present, so I had a lot of interaction with Pete.

BY MR. BAKER:

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

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

Q     Who were the other two?

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

Q     And then below --

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

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

A     No. There would be a number of section chiefs and then below section chief would be unit chiefs and then below unit chiefs would be supervisors.
Q     Do you remember any of the section chiefs' or unit chiefs' names?

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

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

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

BY MR. SOMERS:

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

A     Generally.

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

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

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

Q Did Lisa Page attend those meetings?
A Yes. She attended as the special assistant to the deputy director, and I don't know that she attended all of them. I would say that generally she was not in the morning briefing with the director, and I don't know that she came in for the morning briefings with Pete. Perhaps one time, but I can't recall.

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

Q Did lawyers attend any of these meetings?
A  Most of the meetings.

Q  Did [REDACTED] attend these meetings?

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

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

[REDACTED]: I'm sorry?

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

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

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

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

Mr. Somers: Okay.

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

Mr. Somers: No, I'm not asking him -- I know who
they are. I'm not asking to identify them. I'm saying
I'm not sure that if I asked the witness who the OGC
unit chief is if he knows who that is.

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

BY MR. SOMERS:

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

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

: And I'm going to ask the witness not to
identify non-SESer names.

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

: I can sidebar with him.

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

: Give us one minute.

Mr. Somers: Okay.

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

Mr Somers: Okay.
1: You said 82?

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

Mr. Somers: Let's go off the record.

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

BY MS. ZDEB:

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

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

A Sure. All the time.

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

A Sure. Yeah. Yes.

Q And in your experience, should an agent or a prosecutor stop investigating a particular individual just because that individual denies engagement in
criminal conduct?

A       Course not.

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

A       The FBI should not shut down that investigation.

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

A       Correct.

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

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

Q       You may be aware from your review of the Inspector General's Report that Director Wray said that
the FBI is taking a number of corrective actions in response to the FISA errors that the IG identified. Do you have any reason to believe that the FBI is not taking appropriate steps in response to the IG's Report?

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

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

A     Correct. Correct.

Q     Thank you.

BY MS. CALCE:

Q     So my colleague was just asking you a little bit about the Inspector General's Report. As you may know, the Inspector General examined more than a million documents and interviewed more than 100 witnesses. Were you among the people that he interviewed?

A     I have had several IG investigations, and I believe that was one of them, yes.
Q     Do you remember if he interviewed you once?

Multiple times?

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

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

A     Yes.

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

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

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

A     No.

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

A     No. Let me clarify that. So my secretary did a Google search of my name and just gave me the page where I was referenced, and I scanned through them. So that's the extent of my review.
Q    Did you ever -- did you have the opportunity
to review the draft report before it was made public?
A    No.
Q    And the sections of the report that you did
review, was there anything inaccurate in your view?
A    Not that I recall, no.
Q    Okay.  So before the break, we had spoken a
little bit -- you had mentioned a couple times that
perhaps you didn't review something, but the AD did.
Who was the AD?
A    Bill Priestap.
Q    And so I just want to ask a little bit about
your relationship with Mr. Priestap.  What was your
relationship with him?
A    I was his direct supervisor.
Q    How long did you work with him?
A    I think Bill and I were first office agents
in Chicago back in the late '90s.  I didn't know him
well, and we knew each other by name.  In the first
opportunity where I began to work with Bill more closely
was when I came back to headquarters as the
assistant -- first as the deputy and then as the
assistant director of counterterrorism.

    At some point, he also returned to headquarters,
probably when I started to have -- first as a colleague
because he was also the assistant director, and then as
his boss, so probably -- I've known him -- the name for
20 years. In terms of a working relationship, over the
last two years of my career I had a close and continuing
working relationship with him.

Q And what is your professional opinion of him?
A Bill is a -- I'd describe Bill as a very
astute intellectual. He sees the big picture. I was
very impressed with his ability to see the big picture
in intelligence and kind of develop a thought process
around that, so he had very good intelligence instincts.

Q And do you believe that Mr. Priestap was
honest?
A Absolutely.

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

So can you explain why the investigation was opened,
in legal terms what the predicate was?

A     Predicate for Crossfire Hurricane?

Q     For Crossfire Hurricane.

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

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

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

Can you explain why that would have been a
significant factor as far as the predicate of Crossfire Hurricane goes?

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

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

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

Ms. Calce: I am.

[Redacted]: What page number?

Ms. Calce: That was page 49.

BY MS. CALCE:
Q    Mr. Priestap told the Inspector General, and this quote is from page 53 of the report, that the combination of the friendly foreign government information and the FBI's ongoing cyber intrusion investigation at the DNC has created a counterintelligence concern that the FBI was, quote, obligated to investigate.

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

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

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

A    Yes.

Q    And what is your understanding of what he meant?

A    So he's saying that a friendly foreign government, in this case a partner of ours, provided us information suggesting there was a contact, there was a connection between an individual and a foreign government. That along with previous actions such as cyber was all driving towards one overarching counterintelligence -- or I'm sorry -- intelligence operation.
Q     And the phrase "counterintelligence" concerns specifically -- what is that understood to mean? What do you understand that to mean?

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

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

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

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

BY MS. ZDEB:

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

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

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

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

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

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

BY MS. CALCE:

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

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

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

Q     Do you have any evidence that bias or improper influence influenced any decision that Mr. Priestap made with respect to Crossfire Hurricane?
A No.

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

A No.

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

A No.

BY MS. SAWYER:

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

And I want to explain where I'm coming from in my questions to you. Because you may have observed, if you've been watching the news, that there have been questions raised as to whether there was ever a legitimate reason to open Crossfire Hurricane, and it's been put as whether there was ever any there-there. And I know you've explained to us that you're not entirely clear sitting here today what specifically you knew then and what you've learned since, but I want to ask you some questions just based on -- I mean, you're the expert here. You were the head of the division that
was counterintelligence and counterterrorism. You know, we're not experienced in that regard.

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

A     Yes.

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

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

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

A     Well, sure.

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

A     And, again, my recollection of the situation, this is not one singular investigation that's kind of moving through the course of 2016. There's a number of factors. We've been aware for a long time that foreign adversaries such as China, Russia, and others collect intelligence on United States. They do so in a variety of different ways: using human sources, using cyber techniques, and other technical collection measures.
Any time we identify cyber intrusions that are associated with a nation state are a concern to us. It's not uncommon and it happens all the time, but it's a concern, particularly when they are successful, particularly when they are focused not only on the private sector, but on institutions, and in this case our political institutions like the DNC or the RNC.

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

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

Now, it may be innocuous. There may be nothing to it, but the FBI would be highly scrutinized and should be if they did not follow that investigative lead.
Counterintelligence investigations are very difficult. We've had a number of high-profile spies that have caused significant. When you look at the history of those investigations, you'll find that there were a lot of warning signs that were unheeded. I hope today the FBI continues to open up and robustly pursue counterintelligence investigations when there's appropriate predicate.

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

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

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

A     So I guess, first of all, what you're saying I recognize, but I don't know if I recognize it from my time or all the media. Taking it on its own your
statement is absolutely concerning. I don't know that I can clearly say in the spring of '16 I knew that, but I have heard since or now it's part of my recollection on the Papadopoulos' stories particularly, but that by itself is a concerning statement, yes.

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

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

Do you recall learning those facts at any point in time?
A: Vaguely. I mean, my recollection is not a hundred percent on the timeline and those topics. I recall the friendly foreign government, if I remember correctly, struggled with the decision because it did not want to appear to be involved in a political situation. They ultimately made the decision because they felt that a foreign government was taking inappropriate steps, but I don't recall to your point the timeline of WikiLeaks.

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

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

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

A foreign intelligence person or a foreign
government has a lot of clout behind their information. They come to us, particularly a close partner, and provide us intelligence. That's a threshold that's very significant. So for them to provide this information did and should have been rightfully taken very seriously.

Q So another legitimate factor that was weighed into it was the source, that this was a friendly foreign government who was providing us with this information?

A Absolutely.

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

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

A To be clear so, yes. First of all, I don't know that I knew it at the time, but what you've just stated on face value, absolutely. It would be enough proof for an investigation.
Q. And then with regard to Mr. Manafort, who was at the time the campaign manager for Donald Trump's campaign, facts recited by the FBI as a basis for opening a counterintelligence investigation involving Mr. Manafort included the fact that he had close ties with individuals associated with the Russian government, including potential Russian oligarchs.

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

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

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

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

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

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

Q     And then with regard to Mr. Flynn, again, it articulated that quote, He may wittingly or unwittingly be involved in activity on behalf of the Russian
Federation which may constitute a federal crime or threat to national security, and then cites to, quote, various times to state-affiliated entities of Russia and the fact that he traveled to Russia in December of 2015.

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

Can you repeat the page again?

Ms. Sawyer: It's page 60.

The Witness: Can you repeat that again?

BY MS. SAWYER:

Sure. With regard to Mr. Flynn --

Yes.

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

And my question was whether or not those facts would have provided an adequate predicate, a there-there, for
opening a counterintelligence investigation on Mr. Flynn.

A     Yes.

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

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

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

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

A     Yes. Absolutely. Again, there's been a number of intelligence failures in recent memory, and in every single instance when you do a group analysis and you look back at the facts, there was evidence or
intelligence we should have followed up on that was not. So you try to learn from those. And so I think from a counterintelligence and a counterterrorism perspective, we teach our agents and analysts to leap forward.

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

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

A     It's a good question. It's a valid question to ask, and it's a subjective call in each instance, and it's based on a totality of the facts known at the time, the intelligence known at the time. Clearly, in any counterintelligence investigation, for it to be
successful, you need to keep it covert. Once that
investigation becomes known, of course your ability to
fully flesh out contacts, paper trails, et cetera, et
cetera, disappear. You may never be able to follow
through with that investigation.

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

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

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

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

Q     And if you had been uncomfortable with the
fact that instead of approaching them the decision had
been to at least open these investigations, would you
have raised that? And I know I'm asking you to think back four years.

A Say that again.

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

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

If later through the course of the investigation as you work through it you determine that they were unwitting, then it would be wise to provide some type of counterintelligence awareness or provide other
protections if you couldn't provide a threat review securely.

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

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

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

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

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

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

Q     I think that's all I have for the moment.

Thank you.

BY MS. ZDEB:

Q     So, as you know, Crossfire Hurricane eventually morphed into the Special Counsel -- was taken over by the Special Counsel investigation and at a certain point transitioned from being a purely counterintelligence investigation to also having criminal aspects of the investigation. Three out of the four individuals that Heather was just asking you about were eventually charged with crimes as part of the Special Counsel's investigation.
Last week former Deputy Attorney General Rod Rosenstein testified before our committee and seemed to endorse the view that because the Special Counsel did not charge any of those individuals with conspiring with Russia, that that meant there was not a there-there, so to speak, to open the investigation in the first place.

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

A     Of course not.

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

A     Again, I highlighted those earlier. The predicate for opening national security investigations is set low for a reason, and that reason is because we are required to prevent. When you prevent a crime from being committed versus investigating it after the fact, you are essentially starting your investigation before
steps have been taken by the subjects gets criminal in nature.

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

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

BY MS. SAWYER:

Q Can I just interject with a quick question? I'm just curious from your perspective -- now, there's been conversations about whether a campaign, if it's tipped off that a foreign government might be seeking to assist it, whether or not they should have an obligation or -- whether moral or legal, honestly, to report that to the FBI. I'm curious as to your opinion on that.

A Yeah, I don't want to get into a political
conversation. I would hope that the US citizen, if he believed or she believed that he or she was the target of the counterintelligence operation, regardless of their position in government or political party, would have -- would feel a duty and be duty-bound to advise the FBI immediately.

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

A Absolutely.

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

(Recess.)

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

BY MR. SOMERS:

Q Something you mentioned in the last round, you used the word "successful," "successful counterintelligence investigation," and I just want to ask you. What's the goal of a counterintelligence investigation versus maybe what the goal of a criminal investigation is? The question is just: What's the difference between a counterintelligence investigation
and a criminal investigation?

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

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

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

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

But there were conversations had about the scope of
what we would provide to the candidates, and I believe, if I'm not mistaken, there was a national security briefing forwarded to both candidates in the fall on a periodic basis. I'm not a hundred percent convinced of that, but I believe -- I want to say we made a separate arrangement to brief Candidate Trump up in New York at the Trump Towers, if I'm not mistaken.

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

A I'm not aware of that.

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

A So as I remember, there were numerous conversations about providing briefings to both candidates, but I don't recall when specifically those conversations or the exact contact context of those conversations.
By the way, the campaign -- I want to make sure we're clear -- we were not briefing a broad number of members of the campaign. We'd be briefing the candidate.

Q: Yeah, but a couple close -- very close advisors?

A: Right. Yes.

Q: That's what I --

A: Sure.

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

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

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

A: What do you mean?

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

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

Q: Did you know who Christopher Steele was while
you had his report sitting on your desk?

   A    Did I know who he was? I didn't know much

background. I think I had some understanding that he
previously provided information to the FBI on a criminal
matter. I didn't know much beyond that, no.

   Q    And did you understand why he was collecting

this information?

   A    I recall there was an initial request by a

campaign or political party to fund his efforts, if I'm
not mistaken, but I don't recall specifically.

   Q    And you don't recall knowing that the DNC had

funded those efforts?

   A    So what you said I know from the news media.

I don't know that I knew it to that level of detail in
the summer of 2016.

   Q    And you were aware that Steele was a -- were

you aware that Steele was a confidential human source
for the FBI?

   A    Yes.

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

   A    So I hope I don't mess this up. It's been a

while. I believe that's our source system.

   Q    It has information about confidential human

sources?

   A    Yeah. It's, by nature, a closed-off portion,
you know, not just files, files, et cetera.

    : 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
    : 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
24
    --
25
    : I'm going to interrupt. I'm going to
stop this explanation as to what is involved with our Delta system. Do you really need to go into that?

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

Okay. Well, I'm going to instruct the witness not to go into this.

BY MR. SOMERS:

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

A I don't think so, no.

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

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

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

93
over to the prosecuting entities.

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

A No.

Q So such that as the -- I'll just read to you from the IG Report, on Roman V in the IG Report.

"Steele himself was not the originating source of any of the factual information he was reporting. Steele instead relied on a primary subsource for information, who used his/her network of subsources to gather information that was then passed to Steele."

You weren't aware of that?

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

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

A I do remember that, yes.

Q Were you aware that they then located and identified the primary subsource?

A Zach, I think I remember that. I'm not sure,
but it sounds familiar, but I'm not sure if I knew about
it then or I've since learned about it.

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

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

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

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

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

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

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

A    No.

Q    So you weren't, you know, aware of
impressions such as -- these are quotes from the IG
Report -- that the primary subsource reports back
to -- I'm sorry -- is interviewed by the FBI, and some
of the comments he had about his reporting were that
Steele's primary subsource was giving Steele information
that was based on, quote, conversations with friends
over beers. The primary subsource would characterize
information he gave Steele as word of mouth and hearsay,
that his primary subsource told the FBI the information
was intended to be taken with, quote, a grain of salt.
The primary subsource corroboration on his reporting to
Steele was, quote, zero.

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

A     No.

[: I was just going to interrupt. Can
you --

Mr. Somers: Page 88.

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

BY MR. SOMERS:

Q     So the FBI interviewed Steele in January of
2017. It's fair to say you didn't get a readout of that
interview of the primary subsource, that you recall at
least?
A: I would say probably fair I don't recall. If somebody started to give a briefing, I wouldn't -- I wouldn't disagree. I just don't recall.

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

A: I don't recall.

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

You don't recall seeing anything like that?

A: I don't.

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

A: I'm not.

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

A: I should say I don't recall.

BY MR. BAKER:
Q    Aside from that specific closing communication, what is the relationship between headquarters and a field office when a case is to be closed? What's the office of origin? What does the term "office of origin" mean?

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

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

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

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

Q    Okay. So because it was sort of this hybrid, would it be unusual for Washington field to send a communication saying that they've exhausted -- and these
are my words -- they've exhausted their leads?

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

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

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

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

A     Sure. Yeah. There are times when
headquarters steps into the field and says, you've not satisfied us in either direction, and, therefore, we're requiring you to take further investigative steps or not take further investigative steps.

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

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

What does a headquarters special mean in this instance?

A Yeah, you're absolutely right. The term "special" many years ago was when the field offices had autonomy. It provided a special funding code for the field, stronger program management, and different
funding processes. That term has largely gone away. I think it's probably not an appropriate term. Some people use it.

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

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

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

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

A No, absolutely not.

Q It's just the sensitivity, the high stakes,
the resources that might be needed, the extra oversight that might be needed because of what the instant matter involves; is that fair?

A     Correct. Yes. Fair to say.

BY MR. SOMERS:

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

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

Q     Midyear Exam?

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

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

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

A     Yeah, it's not a -- I don't know

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

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

A     Sure.

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

A     Yeah. My office was on the seventh floor.

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

A     No. I wasn't -- I don't recall there being a
disconnect. Some folks wanted to close it, and some
folks on the seventh floor didn't.
Q Were you aware at the time of the phone calls between Flynn and a foreign official?

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

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

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

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

A Yes.

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

A Yes, before it happened.

Q Did you approve that?

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

In terms of approved, did I agree with the plan, yes? Did I actually sign off on it? No.
Q. So it didn't go -- I guess when I said approved I meant up. So obviously, yes, the deputy director eventually approved it. It can either be approved by him, or it could go up through you and be approved by him?

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

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

BY MR. BAKER:

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

A. I don't recall. I mean, I've told -- in other settings I have told, and I'll stick to this, Director Comey had a very open style of leadership, and so we often disagreed or robustly discussed situations or decision points in the morning and the afternoon in
Midyear and Crossfire Hurricane. There were a lot of conversations where there was a back-and-forth.

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

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

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

BY MR. SOMERS:

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

A I believe so. I believe so. But I'm not strong enough in that opinion to know when I knew about
Q     The topic of whether to inform General Flynn
of penalties under 18 USC 1001, was that discussed in
that meeting?
A     I don't recall.
Q     Was Mr. Strzok in the meeting?
A     I don't recall. He likely would have been.
I don't recall. Again, that same quorum or core group
of people that we talked about would have been present.
If they were there for every individual conversation, I
don't know, but the general same core: the director,
deputy, general counsel, deputy chief of staff, myself,
EAD Strzok. That core was there for most of the
conversations as long as they were in town.
Q     Was Lisa Page part of that quorum, or let's
just say for that specific meeting? Was Lisa Page in
that specific meeting?
A     Well, I don't recall if she was there. She
was there for many conversations.

Mr. Somers: I just want to remind the witness not to
get into SES names. We're not going to express this on
the record.
Mr. Somers: Yeah, I'm not asking him for the names
in that meeting.

BY MR. SOMERS:
Q    Apart from the meeting, do you recall any
discussions about the 1001 and whether Flynn should have
been warned about 1001 as part of the meeting -- I mean
as part of the interview?
A     No, I don't.
Q     Any other discussions about whether to alert
the White House counsel other than what occurred in that
meeting?
A     I thought there were conversations either
between us and White House counsel or DOJ and the White
House counsel. If I'm not mistaken, that did occur. I
just don't know time frame when or if I were a part of
those. Those probably were above my pay grade. That
was probably director DAG and director AG.
Q     Did you have any discussions with the DAG
Sally Yates about the interviews?
A     I was present for conversations. My direct
chain of command wouldn't go to Sally. I was there.
There was probably once or twice a week at the
director's briefing that the AG, the DAG, and their
staff would come over and have a follow-on briefing.
Some of these conversations took place in that
setting, but at times the DAG or agent would go off in a
sidebar with the director. I don't recall in what
format that would occur, those conversations would
occur.

Q     Do you recall any conversation, any
discussion where Sally Yates expressed the sentiment
that either Flynn or Trump White House or incoming Trump
White House should have been defensively briefed about
Lieutenant General Flynn's phone conversations?
A     I don't recall that.
Q     Do you recall any concern being raised by
Sally Yates about the interview?
A     Yeah. So to answer the question more
appropriately, everything you're saying rings true with
me, but, again, I don't recall. This was in the news
for a lot, so I don't recall. Everything you said, I
would basically be able to say, check. Got it. Got it.
I just don't recall if I was aware of it in January 2017
or at some point post retirement. So it sounds
familiar, Zach, but I'm not sure if I knew about it in
2017. It's likely that I would have. I can't say for
sure.
Q     In that January time period, you recall being
involved in any discussions where it was DOJ has this
opinion about what we should do with Flynn; we FBI have
a different opinion? Do you recall any discussions like
that?
A     Yeah, I vaguely remember Sally Yates was
not -- did not feel we were going far enough, but I don't recall. I don't recall the specifics about that.

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

A No.

Q Are you familiar with the Logan Act?

A Yeah.

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

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

BY MR. BAKER:

Q It doesn't have to necessarily be in the instant case, but you have a good, rich investigative background on both the criminal side and national security side. If you recall, at any time in your career where you're going to do an interview of a subject, is it unusual to have a meeting with maybe another agent that you're going to take on the interview with you and kind of sketch out what you hope to get out of the interview, what courses of action or what kind of responses you think that the subject of the interview might give and then what weaknesses or vulnerabilities you might be able to leverage to get a confession or whatever the goal of the interview is?
Bottom line: Is it unusual to have a pre-interview meeting with your co-case agent to kind of discuss a strategy on an interview?

A     It's not unusual, no.

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

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

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

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

A     Yeah, I suppose. I wouldn't articulate that interview's a free-flowing process. I mean, you go in with information you have and you use your ability to communicate and the interview kind of takes on a life of
its own, and so likely, although you planned for the interview to go a particular way, it very rarely goes the way you planned. So you would just base it on the responses and kind of the relationship that's been developed.

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

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

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

Q    Okay. And I think that's a very important point with me. You wouldn't go into an interview, and especially maybe not a high-level, high-profile interview, without any kind of preparation. You would at least sort of sketch out what the goal of the
interview was, what you might do if the interview terminated. You would at least have some kind of roadmap to keep things going towards the direction for whatever purpose the interview is?

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

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

A Correct.

BY MR. SOMERS:

Q I think the term you used was goals and objectives going into an interview, what the goals and objectives were. Were goals and objectives discussed at all in these meetings with the deputy director and the
director in terms of the Flynn interview?

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

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

A     I do not.

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

A     No.

Q     Were you aware they had a personal
relationship?

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

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

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

Q     Taking information from Strzok?

A     Yeah. In other words, Lisa was part of some
of the investigative processes. Instead of being a part
of that process, she was not following the chain of command. There was concern about that.

BY MR. BAKER:

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

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

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

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

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

Q     Does two people that work in
counterintelligence investigations and have access to things that hostile intelligence services would be interested in, does the fact that two people involved in those types of investigations for the FBI, does that create a vulnerability for them to be targeted by hostile intelligence service?

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

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

I'm not sure what you're getting at. If your point is that because Lisa and Pete were having an affair, did that make them vulnerable or -- I would say probably no -- to this investigation? Was it inappropriate? Yes. Do I think necessarily that it negatively influenced the investigation? I don't know that I would agree with that.
Q    But did it negatively impact any aspect of
the investigation? I think you said earlier they were
bypassing the chain of command and going to each other.
Does that relate to their --

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

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

So what you're talking about is the briefing
structure. I don't know that it was affecting the
integrity of the investigation itself. It was certainly
causing problems on the seventh floor or with the chain
of command that she was briefing. Does that distinction make sense?

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

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

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

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

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

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

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

A    I'm not aware that anybody -- it first came to light to me that they were having an intimate affair when -- in fact, I didn't know about it, but all of a sudden I saw -- I heard that Pete was removed. I still
didn't know why Pete was removed. It was several days later that I found out. 

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

BY MR. SOMERS:

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

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

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

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

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

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

Q Let me read to you from pages 64 and 65 of the IG Report. I think it's page 64. Priestap also told us that he originally wanted to assign investigation to a deputy assistant director, DAD, other than Strzok because, although he had confidence in
Strzok's counterintelligence capabilities, he had concerns about Strzok's personal relationship with Lisa Page affecting the Crossfire Hurricane team. According to Priestap he told Steinbach about his concerns and Steinbach was supportive of his decision to remove Strzok from the team, but his decision was overruled by McCabe.

First, I think you said you recalled Priestap --
A I don't recall it.
Q You don't recall him raising the personal relationship with you?
A No, that's not true. I recalled Bill raising concerns about Lisa's circumventing the chain of command and doing it because of the information that she and Pete were working on together. I don't recall Bill telling me or asking me or advising me that he wanted to remove Pete from Crossfire Hurricane. I don't deny that it may have happened. I just don't recall it.
Q Did you at any time want to remove Pete from Crossfire Hurricane to give him I think -- give me one sec here.

Mr. Baker: More of a broad-based experience, traditional.
BY MR. SOMERS:
Q The quote is traditional DAD experience.
That's on page 64 of the IG Report.

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

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

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

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

A     Yeah, I don't recall. I don't recall that I had a conversation with Bill about removing Pete from Crossfire Hurricane, and I don't -- nor do I recall...
1 asking or making a request of Andy McCabe, the deputy
director, to remove Pete from Crossfire Hurricane.

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

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

   A   Yeah, it would not be unusual. I knew Pete a
lot longer than I knew Bill, so I had a good
relationship with Pete. I thought he was a very
aggressive counterintelligence agent, so I recall having
conversations with him, developmental conversations with
him about his future, to include to be careful that his
relationship with Lisa, that he was not -- information
was flowing up correctly, but I don't recall
specifically this conversation you've referenced. I
don't deny that it might have happened. I just don't
recall.
Q     It sounds like -- in the last round someone asked about your assessment of Mr. Priestap. It kind of sounds like your assessment of Mr. Strzok is he's a competent intelligence agent?

A     Absolutely.

Q     And maybe more than competent.

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

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

A     Right. I did, yes.

BY MR. SOMERS:

Q     Just for a second here -- I think we're almost done, but we discussed the first time in our first round your daily briefings with -- or Priestap characterized the daily briefings as the Carter Page -- you get the FISA on Carter Page. Were you being briefed at all on, like, what you were learning from the Carter Page FISA collection?
A
Not on a daily basis. I'd say probably I was
given periodic updates into the larger Crossfire
Hurricane. Some of that may have included Carter Page
information; some of it may not have.

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

A I don't recall.

BY MR. BAKER:

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

It sounds like there's a lot of moving parts in the
FISA process and there's a lot of personnel movement in
the FBI, and people go on to check a box here and there
as they continue their career progression. Is there
anything that should be changed so there's a more
developed workforce that has an expertise in these
matters rather than coming in and trying to play catch
up to learn a process that sounds kind of complicated
and then to move on to the next thing only to have it
backfilled with somebody that is right back to negative
experience or little experience?
It just seems like there's a constant cycle of people coming in and out and a training that doesn't seem like it's always working, and the Woods File issue is a specific example.

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

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

A     Sure. So I think you bring together two topics which I'm going to separate. The first more simple one is the FISA process. So I would say that
while I was in the FBI I did not think there was a problem with the FISA process. Clearly, there's been some facets that have come to light that I -- I can't say that I've read it closely because obviously I'm not following all this stuff, but it's clear to me that there's some mistakes that were made in the FISA process.

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

Your other assertion about movement of people, I completely disagree with you, and I think people who make comments about movement of FBI agents and turnover at headquarters as a cause for concern are mistaken.

I'll use an example of the US military. Identify any flag rank officer and ask that flag rank officer how long he or she stays in a particular role. The role of a commanding officer of the units, the squadron, a battalion is a year. They successfully run the United States Navy, Marine Corps, the Air Force, and the Army with an up or out policy. You can't stay and maintain and be a specialty 03 or 04 officer.

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

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

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

A    So I had this conversation with Director Comey on my last day, and, yes, I think the workforce is in two different groups. FBI agents who remain journey FBI agents who do entire career in field, they want to
retire at 50, I think it's fine.

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

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

I can tell you that if you go out in the private sector and you get four, five, six times your SES salaries. So clearly there's a discrepancy. And so you see that flight, that needs to change. Now, the other thing that can happen, you should bring back senior executives in the FBI like myself who've been in the
private sector to jump into the EAD ranks. I do think there is an organizational leadership structure that needs to be taken and needs to be looked at from the leadership ranks of the FBI.

Q   And you think that --

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

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

BY MR. BAKER:

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

A   No.

Q   Do you know what a green SAC patch is?

A   Yes. I have one.

Q   And what exactly is that?

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

Q   That one.

A   Do I know what it is? Yeah. I have one.
Q And does every former employee get one, or what do you have to get a badge that allows you to get in after you've retired?

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

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

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

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

Mr. Baker: Okay. Thank you.

(Recess.)
BY MS. SAWYER:

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

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

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

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

Q    And I ask in part just because there have been sometimes claims, not accurate claims, but claims that the Steele dossier was part of the reason that the Crossfire Hurricane investigations were opened in the
end of July, and the Inspector General actually found
that that wasn't the case, that the Steele dossier had
played no role, and I just wondered if your recollection
was consistent with that finding.

A     I don't recall to be honest with you.
Q     But certainly you don't have any reason to
believe that was --
A     No.
Q     The Steele dossier has played a very large
role in a lot of the public dialogue around this, and so
I'm going to describe that dossier as opposition
research on a candidate because it did derive -- a
company that was working with and campaign hired
Mr. Steele and asked him to do research and that's where
it derived from.

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

So I'm not asking you for a political opinion at
all. I'm just asking you for based on your expertise
and experience, is it -- it's been suggested that with
regard to the Steele thing, it should have been ignored completely by the FBI. Do you agree with that assertion?

A No.

Q So how should it have been handled?

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

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

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

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

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

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

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

A    Can you say that again, please?

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

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

A    So I can't answer that question specifically other than I would assume so and hope so. I mean, I don't -- I didn't look at the case file, so I can't tell
you step by step what was involved in terms of the investigative process. But I would hope that all information that was used as a part of the investigation, including the Steele dossier so to speak, regardless of where it came from should be part of the investigation.

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

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

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

A I have not.

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

A Yeah, no, I don't.

Q I want to turn just for a moment -- there was
a lot of discussion about both Lisa Page and Peter Strzok and their personal relationship.

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

A No.

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

A Yes.

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

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

Q And you don't recall any conversation where Mr. Priestap expressed to you concerns about how
Mr. Strzok was conducting the investigation?

A     I don't.

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

A     She was not.

BY MS. CALCE:

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

A     No.

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

A     Yes.

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

A     The case agents would do the interviews.

Q     Right.

A     Yeah, it's not -- it's a hypothetical
question, but, yeah, it's not unusual for two case
agents to collaborate and kind of figure out the game
plan for the witness interview.
Q And as part of that, they might, you know, consider multiple approaches to an interview?

A Sure.

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

A Sure.

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

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

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

In fact, I'll take it a step further. Often when I
interview subjects, I talk to them and use a variety of ways to get them to admit or make statements.

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

A No.

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

A No.

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

A No.

BY MS. SAWYER:

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

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

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

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

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

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

(Discussion off the record.)

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

BY MS. SAWYER:

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

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

A I think that's probably too political for me to answer. I mean, I think if any individual, particularly in a position of trust in government, withheld or concealed information or relationships with
a foreign government, particularly an adversarial
foreign government, that's a problem, and that's a very
concerning behavior pattern.

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

Q    And I am honestly not trying to get you to
make a political statement. I'm happy to alter the --
A    I just don't want to get into --
Q    Understood. I'm just trying to get a sense
of, you know, there have been allegations that there was
no legitimate reason to be questioning Lieutenant
General Flynn.
A    Yeah, that's wrong. Absolutely.
Q    And can you explain why that would be true,
why he should have been questioned?
A    He's the incoming National Security Advisor,
and information was identified that was concerning for
us. He's in a particular position of trust with access
to very sensitive information. That is absolutely
appropriate.

Ms. Sawyer: Give us a minute, and we'll just make
sure that we're --
So I think we are finished with our questioning. We appreciate you taking the time and coming in and answering questions that we have. I don't know if you had any --

[Redacted]: Before we close can record -- actually, can we go off the record for a moment?

(Discussion off the record.)

BY MR. SOMERS:

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

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

A Yes.

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

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

[Redacted]: And, again, I'm going to instruct the witness not to answer. We haven't received clarification on whether we are allowed to go into
non-SES names here today.

BY MR. SOMERS:

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

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

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

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

The Witness: You're welcome.

(Whereupon the proceedings were adjourned at 1:53 p.m.)
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Notice Date:

Deposition Date: **June 12, 2020**

Deponent: **Michael Steinbach**

Case Name: **Senate Judiciary Committee**

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