

EXECUTIVE SESSION
COMMITTEE ON THE JUDICIARY
JOINT W/
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.

INTERVIEW OF: JAMES RYBICKI

Thursday, January 18, 2018

Washington, D.C.

The interview in the above matter was held in Room 2141, Rayburn House Office Building, commencing at 10:15 a.m.

Chairman Goodlatte. All right. Let's go on the record. This is a transcribed interview of James Rybicki, Chief of Staff to the Director of the Federal Bureau of Investigation.

Chairman Gowdy and I requested this interview as part of a joint investigation by the House Committee on the Judiciary, and the House Committee on Oversight and Government Reform to conduct oversight into the Department of Justice's investigation of former Secretary Clinton's handling of classified information and related matters.

Would the witness please state his name and position at the FBI for the record.

Mr. Rybicki. James Rybicki, Chief of Staff to the Director of the FBI.

Chairman Goodlatte. I want to thank you for appearing here today and appreciate your willingness to appear voluntarily.

Mr. Rybicki. It is a pleasure, Mr. Chairman.

Chairman Goodlatte. I'm Bob Goodlatte, chairman of the Committee on the Judiciary, and I am joined today by several members of the Judiciary and Oversight and Government Reform Committees, and by counsel for those committees. I will now ask everyone else from the committees who is here in the room to introduce themselves, as well starting with members of the committees.

Mr. Ratcliffe. John Ratcliffe from Texas.

Mr. Biggs. Andy Biggs, Arizona.

Mr. Lieu. Ted Lieu from California.

Mr. Nadler. Jerry Nadler, ranking member, from New York.

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Chairman Goodlatte. Anything you want us to --

Mr. DeSantis. Ron DeSantis, Florida.

Chairman Goodlatte. Did Zoe Lofgren leave?

Now the staff members. We'll start with you, Ryan.

Mr. Breitenbach. Ryan Breitenbach, counsel on the Judiciary.

Mr. Somers. Zach Somers, Judiciary majority.

Mr. Brebbia. Sean Brebbia, Oversight and Government Reform, majority.

Mr. Castor. Steve Castor with the Government Reform majority.

Mr. Parmiter. Robert Parmiter, Judiciary majority.

Ms. Clarke. Sheria Clarke, Oversight majority.

Ms. Husband. Shelley Husband, Judiciary Committee majority.

Ms. Sachsman Grooms. Susanne Sachsman Grooms, Oversight minority.

Ms. Kim. Janet Kim, Oversight minority.

Ms. Shen. Valerie Shen, Oversight minority.

Ms. Hariharan. Arya Hariharan, Judiciary minority.

Mr. Hiller. Aaron Hiller, Judiciary minority.

Mr. Apelbaum. Perry Apelbaum, Judiciary minority.

Mr. Dhir. Nimit Dhir, Oversight minority.

Mr. Graupensperger. Joe Graupensperger, Judiciary minority.

Chairman Goodlatte. Is there someone in the back? You can still identify yourself.

Mr. [REDACTED]. [REDACTED] from the Federal Bureau of Investigation.

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Chairman Goodlatte. All right. We are joined by another member.

Mr. Raskin. Jamie Raskin from Maryland.

Chairman Goodlatte. And then we'll --

Mr. Schools. Scott Schools with the Department of Justice.

Mr. Brower. Greg Brower, FBI.

Ms. [REDACTED]. [REDACTED], FBI.

Chairman Goodlatte. And Mr. Rybicki has already identified himself.

The Federal Rules of Civil Procedure do not apply in this setting, but there are some guidelines that we follow that I'll go over. Our questioning will proceed in rounds. The majority will ask questions first for an hour and then the minority will have an opportunity to ask questions for an equal period of time, if they choose. We will go back and forth in this manner until there are no more questions and the interview is over.

As I noted earlier, Mr. Rybicki is appearing today voluntarily. Accordingly, we anticipate that our questions will receive complete responses. To the extent that Mr. Rybicki declines to answer our questions, or if counsel for the Department instructs him not to answer we will consider whether a subpoena is necessary.

Typically we take a short break at the end of each hour of questioning, but if you would like to take a break apart from that, please let us know. We will also take a break for lunch at the appropriate point.

As you can see, there is an official reporter taking down everything we say to make a written record, so we ask that you give verbal responses to all questions. Do you understand?

Mr. Rybicki. I do, sir.

Chairman Goodlatte. So that the reporter can take down a clear record, we will do our best to limit the number of members and staff directing questions at you during any given hour to just those members and staff whose turn it is. It is important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

Most committees encourage witnesses who appear for transcribed interviews to freely consult with counsel if they so choose, and you are appearing today with counsel.

Could counsel please state your name and current position for the record?

Ms. [REDACTED], I am the Acting Deputy Counsel for the litigation branch at the FBI.

Chairman Goodlatte. Thank you. 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. And if you honestly do not know the answer to a question or do not remember it, it is best not to guess. Please give us your best recollection, and it is okay to tell us if you learned information from someone else. Just indicate how you came to know the information.

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 answer to the question.

Mr. Rybicki, you should also understand that although this interview is not under oath, you are required by law to answer questions from Congress truthfully. Do you understand that?

Mr. Rybicki. I do, sir.

Chairman Goodlatte. This also applies to questions posed by congressional staff in an interview. Do you understand this?

Mr. Rybicki. Yes, sir.

Chairman Goodlatte. Witnesses who knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements. Do you understand this?

Mr. Rybicki. Yes, sir.

Chairman Goodlatte. Is there any reason you are unable to provide truthful answers to today's questions?

Mr. Rybicki. No, sir.

Chairman Goodlatte. Finally, I would like note that the content of what we discuss here today is confidential. We ask that you not speak about what we discussed in this interview to anyone not present here today to preserve the integrity of our investigation. This confidentiality rule applies to everyone present in the room today, including the members of both committees. And that is the end of my preamble. Do you have any questions before we begin?

Mr. Rybicki. No, sir.

Chairman Goodlatte. All right. The time is now 10:23, and I will turn this over to Mr. Parmiter.

Mr. Rybicki. Thank you, sir.

Mr. Parmiter. Thank you, Mr. Chairman. Good morning Mr. Rybicki. I am Robert Parmiter. I'm chief counsel for Crime, Terrorism, Homeland Security and Investigations Subcommittee at the Judiciary Committee. I'm just going to follow up on what the chairman said by, you know, asking you a few background questions and then, you know, we'll get into the heart of the matter, if that's okay.

Mr. Rybicki. Absolutely.

Mr. Parmiter. So just initially, did you review any documents to prepare for your testimony today?

Mr. Rybicki. I did.

Mr. Parmiter. What documents did you review?

Mr. McCabe. I reviewed the transcript of my interview with the Office of Special Counsel that was done on May 9th, 2017. I reviewed a couple of emails related to the matter. I reviewed Director Comey's statement of July 5th, 2017, as well as emails that he had sent around that time.

Mr. Parmiter. And you said "emails." What emails did you review?

Mr. Rybicki. I reviewed the email that he -- that Director Comey sent to the workforce on July 5th as well, and then I reviewed some other emails, the email -- I don't know if I'm going to remember all of them, in particular, the email where Director Comey circulated a

draft of his July 5th statement.

Mr. Parmiter. And are you referring to the May 2nd email?

Mr. Rybicki. I am, yes.

Mr. Parmiter. Okay. Did you speak with anyone to prepare for today's interview or about today's interview?

Mr. Rybicki. I did.

Mr. Parmiter. And who did you speak with?

Mr. Rybicki. I spoke to representatives from the Office of Congressional Affairs at the FBI, as well as the Office of General Counsel, as well as Mr. Schools from the Department of Justice.

Mr. Parmiter. Okay. Did you speak -- and who from OCA or from OGC did you speak with?

Mr. Rybicki. I spoke with Ms. [REDACTED], who is here today from the Office of General Counsel; Trisha Anderson, the acting general counsel of the FBI; Mr. Brower, the Assistant Director of the Office of Congressional Affairs; [REDACTED] with the Office of Congressional Affairs; again, Mr. Schools from the -- excuse me, from the Department of Justice. I also spoke to several individuals about the fact of the interview, but nothing in preparation for the interview.

Mr. Parmiter. So you did speak to Ms. Anderson in preparation for the interview?

Mr. Rybicki. I did.

Mr. Parmiter. Okay. Did you speak to her about the interview that was conducted with Mr. McCabe?

Mr. Rybicki. So, she referenced the fact of the interview

in -- not in substance though, but in form.

Mr. Parmiter. Okay. And what did you speak about with Ms. Anderson?

Mr. Rybicki. Sure. Certainly. We spoke about preparing for this interview for today, and just the format that it may take.

Mr. Somers. Did you speak -- you said you spoke with people about the fact of the interview. Were any of those individuals involved in the Clinton email investigation?

Mr. Rybicki. So I spoke to the Director, I spoke to -- I'm just trying to remember. Director Wray, I'm sorry, yes. I don't know if I spoke to Mr. Bowdich, our Associate Deputy Director about the interview or not. We had a couple telephone conversations. I just can't remember if we spoke about it or not.

Mr. Parmiter. Okay. And what is your current position at the Department of Justice?

Mr. Rybicki. I'm the Chief of Staff at the FBI.

Mr. Parmiter. How long have you been FBI Chief of Staff?

Mr. Rybicki. Since May of 2015.

Mr. Parmiter. Okay. Is that a career SES appointment?

Mr. Rybicki. It is. It is a -- the FBI has a little bit different process for SES, but it is considered career. It is not a political position.

Mr. Parmiter. Okay. But you serve at the pleasure of the Director?

Mr. Rybicki. Correct.

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Mr. Parmiter. Okay. And to whom did you report at the FBI?

Mr. Rybicki. The Director.

Mr. Parmiter. Directly to the Director?

Mr. Rybicki. Correct.

Mr. Parmiter. And so that's Director Wray in this circumstance?

Mr. Rybicki. That is correct.

Mr. Parmiter. And before Director Wray you reported directly to --

Mr. Rybicki. Acting Director McCabe in the interim period of the summer, and prior to that, Director Comey.

Mr. Parmiter. Okay. And how long was Mr. McCabe Acting Director?

Mr. Rybicki. I forget when he was officially named. It was on or about the May 9 firing date of Director Comey up until Director Wray was confirmed, which, I believe, was either August 2 or the 4th is when he was sworn in.

Mr. Parmiter. Okay. And as FBI Chief of Staff, how many employees do you supervise?

Mr. Rybicki. We have -- let me double check my count, approximately six direct reports, and then in the Director's office proper, including the Director's protective detail and others, there's [REDACTED] individuals.

Mr. Parmiter. So it is about anywhere from [REDACTED] you would estimate?

Mr. Rybicki. Under [REDACTED] I would say total, yes.

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Mr. Parmiter. So you supervise that many directly?

Mr. Rybicki. No. Directly, only about five.

Mr. Parmiter. Only about five. Okay. But as Chief of Staff, are you involved in staffing decisions, hiring decisions, reassignment decisions, either at headquarters -- or both at headquarters or in the field?

Mr. Rybicki. Yes. As an adviser to the Director.

Mr. Parmiter. Okay. And how are you involved in those staffing decisions?

Mr. Rybicki. Sure. I participate -- we have formal processes for most of our promotions and hiring decisions. Some of them are discretionary, but I participate again as an adviser along with the Director, the Deputy Director, and the associate Deputy Director of the FBI.

Mr. Parmiter. So you advise on hiring decisions and other staffing matters?

Mr. Rybicki. In particular circumstances.

Mr. Parmiter. Okay. And, like, what circumstances?

Mr. Rybicki. It depends. Again, for certain positions we have -- for our executive assistant directors, our associate Deputy Director, and the Deputy Director those are chosen by the Director. They don't go through the normal career board process. For most other positions in the Bureau they go for -- I'm sorry, for SES positions, they go before the career board.

Mr. Parmiter. Okay. What are your other duties as the Chief of

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Staff?

Mr. Rybicki. My primary duties are to serve as an adviser to the Director, to be sort of to be his eyes and ears on certain matters, to also run the Director's office, which includes, again, the Director's detail, other support positions, our executive secretariat. I also interact quite frequently with other executives, the Deputy Director, the Associate Deputy Director, the executive assistant director over our branches, and in some cases, with our field commanders as well, our assistant directors in charge and our special agents in charge.

Mr. Parmiter. Okay. So would it be fair to say there is an administrative side to your duty, and a substantive -- an administrative side where you're overseeing, you know, sort of the operation of the Department of the FBI, and then an advisory side to the Director himself?

Mr. Rybicki. I think that is fair. I want to be clear on sort of how we delineate though, if I may --

Mr. Parmiter. Sure.

Mr. Rybicki. -- our duties. So the -- I'm a direct report to the Director, as well as the Deputy Director. Almost every other FBI employee reports up the chain of command through the Deputy Director, and the Deputy Director of the FBI oversees the operational, you know, running of the FBI.

Mr. Parmiter. Okay. So did any of your duties change when the FBI transitioned from Director Comey to Deputy Director McCabe, or

Acting Director McCabe, and now to Director Wray?

Mr. Rybicki. No, not substantially.

Mr. Parmiter. Okay. Where is your office physically in relation to the Directors?

Mr. Rybicki. It is as you walk in the Director's suite, there is a reception area. My office is to the left. If you go to the right, there is a large conference room, and then the Director's office is to the right of that.

Mr. Parmiter. Okay. And so how frequently during a typical day do you interact with the Director?

Mr. Rybicki. It varies. I would say quite frequently.

Mr. Parmiter. Okay. So more than 10 times a day either by email or phone or in person?

Mr. Rybicki. I would hesitate to put a number on it, but it is quite frequent.

Mr. Parmiter. Okay. Now, specifically, in serving Director Comey, did you -- what were your duties for him in terms of did you draft written materials for him? Did you prepare memoranda for him? Was there a writing component to that, like?

Mr. Rybicki. No. It certainly happened, but not -- it wouldn't be one of my primary duties.

Mr. Parmiter. Okay. Did you review all documents that crossed his desk or that were emailed to him? You know, did he generally share things like that with you?

Mr. Rybicki. I wouldn't say "all," but he would share documents

with me, yes.

Mr. Parmiter. Okay. As Chief of Staff do you participate in discussions about, you know, whether the FBI may decide to initiate a criminal investigation of someone suspected of committing a crime?

Mr. Rybicki. I wouldn't say routinely. I can't think of an instance where an initiation decision came up to me for decision or to interaction. I'm just trying to think here whether that's happened. I wouldn't -- you know, I would be hard pressed to remember an instance where that would come up --

Mr. Parmiter. Okay.

Mr. Rybicki. -- for initiation.

Mr. Parmiter. So who does, ultimately, make the call in a typical case, whether, you know, the United States will charge someone or not charge someone?

Mr. Rybicki. Whether they will charge somebody or whether they will initiate an investigation?

Mr. Parmiter. Both. Whether there will be an initiation of an investigation, and then ultimately, whether someone will be -- whether there will be a recommendation for charging, and then whether there will be charges filed.

Mr. Rybicki. Sure. I think it really depends on the circumstances in both cases. Certainly charging recommendation -- or charging decisions are rightfully with the Department of Justice.

Mr. Parmiter. Right.

Mr. Rybicki. Initiation of cases and recommendations and

whether to initiate, whether to recommend, and things of that nature would be done at various levels depending on the case often in consultation with the Department of Justice.

Mr. Parmiter. Okay. And so on that subject, consultation with DOJ, what happens generally in your experience if there's disagreement between FBI and DOJ about, you know, whether a case should be pursued, either by investigation, or ultimately by prosecution?

Mr. Rybicki. I don't know if I can answer that in the abstract. I think it would just be dependent on the case.

Mr. Parmiter. Okay. During your time at DOJ, have you ever been subject to an Office of Professional Responsibility proceeding?

Mr. Rybicki. No.

Mr. Parmiter. Are you involved or notified when other FBI employees are investigating by OPR?

Mr. Rybicki. Yes.

Mr. Parmiter. You are in all cases?

Mr. Rybicki. I don't want to say "all." I get reports of investigations that OPR is initiating, but whether there are some that I haven't been notified of, I don't know.

Mr. Parmiter. Okay. Have you ever used personal email to conduct official FBI business?

Mr. Rybicki. I don't believe I have. There's been instances -- if I have used it, I made sure that it was captured as a record. For instance, if FBI computers were down, DOJ computers were down, things of that nature.

Mr. Parmiter. Okay. So do you remember that specifically happening, computers being down and having to use personal email?

Mr. Rybicki. Yes.

Mr. Parmiter. Do you remember the context of that?

Mr. Rybicki. I don't. I remember it happening, but I don't remember the context.

Mr. Parmiter. Do you remember about when it happened?

Mr. Rybicki. I don't. I can't remember the specific instance, but I can recall doing it before and making sure that it's been captured.

Mr. Parmiter. Okay. Are you aware that anyone in your direct office or anybody you directly supervise has used personal email to conduct official business?

Mr. Rybicki. Yes.

Mr. Parmiter. Okay. And who has done that?

Mr. Rybicki. I know the Director has in limited circumstances --

Mr. Brower. Excuse me, Jim, can you just clarify? When you say, "the Director" do you mean the current Director, the former Director?

Mr. Rybicki. Director Comey, in the instance that I was just referring to.

Mr. Parmiter. Okay. Anyone besides Director Comey?

Mr. Rybicki. I can't think of anyone else off the top of my head.

Mr. Parmiter. And do you recall the context in which Director Comey used personal email to conduct official business?

Mr. Rybicki. Certainly. If he was sending -- working on a document or something of that nature, he would send it from his personal

email account.

Mr. Parmiter. So he would send the document to his personal email account, work on it and send it back, or how would that work?

Mr. Rybicki. I think that is fair to say that both to and from in some instances.

Mr. Parmiter. Okay.

Mr. Somers. In those instances, it would be captured the way you describe your use of personal email?

Mr. Rybicki. Correct, to the best of my knowledge.

Mr. Somers. And could you just explain the reason for having the emails captured in the official email?

Mr. Rybicki. Can you just one more time?

Mr. Somers. You explained that your email, when you use personal email you had it captured in an official record. Could you explain the reason for doing that?

Mr. Rybicki. Certainly. To, you know, to make sure it was in our official system as a government record.

Mr. Somers. If you did not do that, are there criminal penalties associated with not capturing related to FOIA or something else?

Mr. Rybicki. I don't know what the penalties are. I know, as a practice, it should be done.

Mr. Parmiter. Okay. So I think that takes care of most of the background stuff.

Mr. Rybicki. Mr. Parmiter, if you wouldn't mind, can I -- another instance I can think of --

Mr. Parmiter. Sure.

Mr. Rybicki. -- where I would have used personal, if I needed to work on a document, again, just thinking through how the Director might have used it, I can think of -- again, I can't think of specifics, but I know there's been an instance where I needed to read a document or something like that, as well.

Mr. Parmiter. Okay. I'm going to apologize in advance to you here because I'm just getting over a cold. I'll trying try not to cough in your general direction.

Mr. Rybicki. That's okay.

Mr. Parmiter. When did the FBI open its investigation of Hillary Clinton?

Mr. Rybicki. I believe it was the summer of 2015.

Mr. Parmiter. Okay. Do you remember what month specifically?

Mr. Rybicki. I don't sitting here.

Mr. Parmiter. Okay. Who actually opened the investigation?

Mr. Rybicki. I do not know.

Mr. Parmiter. Okay. Was it someone at the FBI?

Mr. Rybicki. I think that's -- I think that's fair, but, again, I don't know who.

Mr. Parmiter. Okay. What usually happens when an investigation is opened at the FBI?

Mr. Rybicki. I don't think I can answer that in the abstract. I don't know.

Mr. Parmiter. Okay. I guess what I mean is, are there

particular forms that are submitted? Is there an approval process for opening an investigation? Who is in that approval process? Things of that nature.

Mr. Rybicki. I'm sure there is. I don't have that level of detail for all cases we do -- the Bureau does have processes for initiating investigations, but I don't have that level of detail.

Mr. Parmiter. Okay. What was your understanding of the scope of the Clinton investigation when it was opened?

Mr. Rybicki. Sure. I believe it was a referral from the Office of the ICIG, the Office of Inspector General for the intelligence community over mishandling of classified information -- potential mishandling of classified information, and it also -- a look at whether that information might have been compromised.

Mr. Parmiter. Okay. So there were media reports prior to the summer of 2015 about the former Secretary operating a private server. Are you aware of or did you participate in any discussions about the possibility of opening an investigation before receiving the ICIG referral?

Mr. Rybicki. Not that I can recall.

Mr. Parmiter. Okay. Do you know whether an assessment was opened prior to the full investigation?

Mr. Rybicki. I do not know.

Mr. Parmiter. Did you know an investigation had been opened when it was opened? Were you notified of that?

Mr. Rybicki. I don't know the answer to that.

Mr. Parmiter. Okay. When you learned about the investigation do you remember approximately when that was?

Mr. Rybicki. I do not. I took over as chief of staff in May of 2015. Again, my recollection is that it was the summer of 2015 when the case was opened, but I don't remember specifically.

Mr. Parmiter. What were you doing before you became chief of staff at the FBI?

Mr. Rybicki. I was the deputy chief of staff.

Mr. Parmiter. You were the deputy chief of staff. How long had you held that position for?

Mr. Rybicki. Since November of 2013.

Mr. Parmiter. Okay.

Mr. Somers. Could we just go back for a second to the previous questions there. Who would know basically when the investigation was initiated --

Mr. Rybicki. I think --

Mr. Somers. -- to your knowledge?

Mr. Rybicki. I think there was any number of individuals, but I would certainly think that the case file would reflect it.

Mr. Somers. Okay. So there's a case file that would have the initial -- there would be initial paper documentation of the investigation being started, is that what you're saying?

Mr. Rybicki. I believe there would be, yes.

Mr. Parmiter. When you learned about the investigation, what did you think about that, the fact that the Bureau was investigating the

former Secretary of State, the current Presidential candidate, what did you think, what did the Director think, what was the mood inside the FBI about that?

Mr. Rybicki. I don't recall a specific reaction to it for me.

Mr. Parmiter. Did you discuss it with the Director?

Mr. Rybicki. I don't recall.

Mr. Parmiter. Okay. You don't recall ever discussing it with the Director?

Mr. Rybicki. His reaction when it was opened?

Mr. Parmiter. Or just the Clinton matter generally during the summer of 2015.

Mr. Rybicki. I'm certain that we did discuss it. He received regular updates on it after it began, but I don't recall specific instances.

Mr. Parmiter. Okay. How regular were the updates you received?

Mr. Rybicki. My recollection, and I don't know when they began, was they started as roughly monthly updates for the Director, and then they became more frequent after that towards the end of the investigation.

Mr. Parmiter. Okay. So from monthly to --

Mr. Rybicki. To my recollection is bi-weekly and then perhaps bi-weekly, weekly as a regular cadence, and then other meetings as necessary.

Mr. Parmiter. Okay. And who was involved in those meetings?

Mr. Rybicki. Sure. There was a group that was involved in most

of those meetings. I can -- would you like the positions or names?

Mr. Parmiter. I would, please.

Mr. Rybicki. So what I would call the sort of core group that met on that would certainly include the Director, the Deputy Director of the FBI. Now, a lot of these positions changed during the course -- I'm sorry, a lot of people changed during the course of the investigation, so Deputy Director, so I believe it was Mr. Juliano at the beginning and then Mr. McCabe. The associate Deputy Director. Representatives from the actual investigative team, so Pete Strzok was the lead agent that briefed the Director. [REDACTED] was the lead analyst that briefed the Director. Then there were representatives from the Office of the General Counsel, typically, the general counsel himself, other representatives from the Office of General Counsel. Would you like them?

Mr. Parmiter. Absolutely.

Mr. Rybicki. Including Trisha Anderson and [REDACTED] representatives from Mr. McCabe's office, Lisa Page, and then myself.

Mr. Parmiter. You mentioned Lisa Page is from Mr. McCabe's office?

Mr. Rybicki. Correct.

Mr. Parmiter. When you said associate Deputy Director and Deputy Director. At the time that was the Deputy Director was Mr. --

Mr. Rybicki. It started out I believe at the beginning it was Mr. Juliano, Mark Juliano.

Mr. Parmiter. Followed by Mr. McCabe.

Mr. Rybicki. Followed by Mr. McCabe.

Mr. Parmiter. What about the associate Deputy Director?

Mr. Rybicki. It was and is Dave Bowdich.

Mr. Brower. If I can clarify, Jim, was Mr. Bowdich the associate Deputy Director the entire time even during Mr. Juliano's tenure as Deputy Director?

Mr. Rybicki. No. He came on -- again, it is one of those positions that changed. He came on after Mr. McCabe was elevated to the Deputy Director position.

Mr. Parmiter. Okay. Because does generally the Deputy Director choose the associate Deputy Director?

Mr. Rybicki. It is the Director's decision.

Mr. Parmiter. It is the Director's decision. Okay. I'm going to come back to that in a minute, the updates.

Mr. Rybicki. Sure.

Mr. Parmiter. But just generally speaking -- so you were chief of staff at FBI based upon your testimony during the whole Clinton investigation. Would that be fair to say?

Mr. Rybicki. Yes, if it started after May 2015.

Mr. Parmiter. And to your knowledge, did it start after May of 2015?

Mr. Rybicki. That's my recollection. I have the summertime, I just don't have the exact date in mind.

Mr. Parmiter. Okay. What was your role in the investigation to the extent you had one at the beginning?

Mr. Rybicki. Certainly. I had no role in the actual investigation, not a member of the investigative team. I was involved in the updates as a participant in these meetings, you know, to sit in for situational awareness for the Director.

Mr. Parmiter. And did your role evolve as the investigation progressed?

Mr. Rybicki. I don't believe it did. I sat in on updates. I collected comments on various things, you know, things of that nature, but I don't think it evolved substantially.

Mr. Parmiter. Okay. Who was the one who was responsible for organizing the updates for the Director from all the individuals you just named?

Mr. Rybicki. Sure. So they were in that group setting. My recollection is that we had it on a regular cadence at the beginning, and then as needed, either the investigative team needed to update the Director on something or the Director asked for an update.

Mr. Parmiter. So during those meetings, was there a discussion about the sensitivity of the matter?

Mr. Rybicki. Yes.

Mr. Parmiter. Okay. And do you recall what was discussed?

Mr. Rybicki. I don't recall specifics. You know, I recall it being handled as a sensitive matter due to the nature of the investigation.

Mr. Parmiter. Was there any discussion at all about ensuring that, you know, any biases that may have been held by the folks in the

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room, political biases, didn't, you know, affect the investigation?

Mr. Rybicki. I don't recall any specific discussions on that.

Mr. Parmiter. Okay. So who would you say from the FBI was the point person on the Clinton investigation, who was in charge of the investigation?

Mr. Rybicki. Again, the lead agent who would brief the Director was Pete Strzok and a lead analyst, [REDACTED] with him.

Mr. Parmiter. And do you know whether either of those individuals were responsible for actually initiating the investigation?

Mr. Rybicki. I do not know.

Mr. Parmiter. Okay. How many FBI agents -- actually, let me back up. Did, you know, the person in charge of the investigation change at any point?

Mr. Rybicki. Not to my recollection. As far as I know, they were the same throughout.

Mr. Parmiter. So from the date that the investigation was initiated through the date the Director announced it was being closed, it was Mr. Strzok and Mr. [REDACTED]

Mr. Rybicki. I believe that's correct.

Mr. Parmiter. Okay. And who was the higher ranking of those two gentlemen?

Mr. Rybicki. I don't remember their levels sitting here, their positions.

Mr. Parmiter. You don't recall if one supervised the other?

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Mr. Rybicki. That's right. I just can't remember their levels within -- they were both in the counterintelligence division, I just don't remember their levels.

Mr. Parmiter. Okay. And to your knowledge, how many FBI agents were assigned to the investigation?

Mr. Rybicki. I do not recall. I have some recollection of it being [REDACTED] For some reason, that is sticking in my head, but I actually don't know that I know the specific number.

Mr. Parmiter. Were all of the agents of the hundred or so agents that, you know, you remember being assigned to the investigation, were they headquarters agents?

Mr. Rybicki. So just to clarify, I think they would be agents, analysts, and other FBI personnel as that hundred.

Mr. Parmiter. Okay.

Mr. Rybicki. I don't know specifically. I know some were brought over from Washington field office and, again, because of their -- because of their positions, they might have been from other entities, for instance, our operational technology division at Quantico and offices and divisions like that.

Mr. Parmiter. And you said brought over from Washington field office. So did the investigation actually begin at WFO?

Mr. Rybicki. I don't know the answer to that.

Mr. Parmiter. Okay. But agents were brought over from WFO to assist with the investigation?

Mr. Rybicki. That is my recollection. Agents or analysts.

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Mr. Parmiter. Agents, analysts or other FBI personnel, correct?

Mr. Rybicki. Correct. Yes.

Mr. Parmiter. Can you provide names and titles of all individuals you can recall from the FBI who were involved in the investigation?

Mr. Rybicki. I don't think I could.

Mr. Parmiter. Beyond the ones you have already given us today, like some of the agents who were brought over from WFO?

Mr. Rybicki. I don't think I could. I might have heard their names or otherwise received, you know, items from them, but sitting here I don't recall any of them.

Mr. Parmiter. You don't recall the names or the titles?

Mr. Rybicki. I do not.

Mr. Parmiter. Okay. Can you describe -- let's talk about the communication between the FBI and Main Justice across the street regarding whether the FBI was going to open an investigation. What was sort of the communication before that to the extent you're aware of it, when you were deputy chief of staff, when you became chief of staff, and then following the opening of the investigation, what was the interaction between DOJ and FBI?

Mr. Rybicki. I don't think I have an answer to that. I don't -- I don't recall knowing what that interaction was or being a part of it.

Mr. Parmiter. Okay. So are you familiar with the term "headquarters special"?

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Mr. Rybicki. No. Well, I'm sorry, I have heard it being used in various contexts, but I don't know what it means.

Mr. Parmiter. Okay. In what context did you hear it used?

Mr. Rybicki. Various media reports related to this investigation.

Mr. Parmiter. Related to this investigation. Have you ever heard it used with regard to other investigations?

Mr. Rybicki. No.

Mr. Parmiter. No. Okay. What about a "sensitive investigative matter"?

Mr. Rybicki. Yes.

Mr. Parmiter. The term for that is "SIM." Is that correct?

Mr. Rybicki. Yes.

Mr. Parmiter. What about "prohibited investigation"?

Mr. Rybicki. I don't think I have heard that term before.


Mr. Parmiter. Okay. So with what does it mean to be a SIM?

Mr. Rybicki. A SIM is a category of cases that are -- yes, categories of cases that are designated in the DIOG as being sensitive and require different approvals or extra layers of approvals.

Mr. Parmiter. Or higher layers of approval?

Mr. Rybicki. I think higher is fair, or, perhaps, certain techniques could or couldn't be used in those cases.

Mr. Parmiter. Certain investigative techniques? Such as what?

Mr. Rybicki. I can't think of them off the top of my head, but certain techniques may not be able to be utilized. 

[REDACTED]

Mr. Parmiter. Okay.

Mr. Breitenbach. You just mentioned "DIOG." Can you explain what that is?

Mr. Rybicki. Certainly. The DIOG is the guide that governs investigations for FBI employees.

Mr. Breitenbach. So this investigation would have been governed by the DIOG, as well?

Mr. Rybicki. I don't know.

Mr. Breitenbach. Do you know whether it governs all investigations at the FBI?

Mr. Rybicki. I believe the DIOG is supposed to govern all investigations.

Mr. Breitenbach. Okay. Thank you.

Mr. Parmiter. So do you know whether -- was the Clinton email investigation designated as a headquarters special? I guess you had heard that term being used with this --

Mr. Rybicki. Yes.

Mr. Parmiter. -- in this context. Who makes that determination about whether something is a quote/unquote "headquarters special"?

Mr. Rybicki. Again, I don't know that term specifically, and so, I'm not certain it is a term of art for the FBI, at least not one that I was aware of.

Mr. Parmiter. And so in what context did you hear that term being used with respect to this investigation?

Mr. Rybicki. Again, in news media reports about the investigation as it being, you know, termed a "headquarters special."

Mr. Parmiter. Okay. So who made the determination that the Clinton investigation would be a SIM?

Mr. Rybicki. I don't know.

Mr. Parmiter. Who normally determines whether an investigation would be a SIM?

Mr. Rybicki. I don't know. I think that's -- I don't know if it is up to a particular individual or if the DIOG designates it.

Mr. Parmiter. Do you know when it was determined to be a SIM?

Mr. Rybicki. I do not. I don't know if it was.

Mr. Parmiter. Is it fair to say usually the -- usually, and not with respect to this investigation, if something were adjudged to be a SIM, or that would happen at the beginning of the investigation?

Mr. Rybicki. I don't know the answer to that.

Mr. Parmiter. To your knowledge, was there any effort or discussion or assertion by anyone, whether at FBI or Main Justice that this investigation should be run as just a regular investigation, and not necessarily a special investigation?

Mr. Rybicki. Can you just repeat that one more time just to make sure --

Mr. Parmiter. So I guess what I'm trying to understand is whether or not during the discussions with the Director that you were privy to, you ever heard anyone talking about, you know, the need to not have this be a SIM because of restrictions on investigative techniques, and

it should just be run as a regular investigation.

Mr. Rybicki. Oh, no.

Mr. Parmiter. Okay. Or for any other reason it should be run as a regular investigation?

Mr. Rybicki. No, not that I can recall.

Mr. Parmiter. Okay. When did the FBI confirm publicly that it had opened an investigation?

Mr. Rybicki. I do not recall. I believe the ICIG, the intelligence community Inspector General's referral was public, that's my recollection. I don't recall the date. I know there were discussions about whether to disclose the fact of the investigation, but I don't recall a date.

Mr. Parmiter. In your experience, is it typical that the FBI confirms or denies the existence of an investigation?

Mr. Rybicki. Typically, the FBI does not confirm or deny the existence of an investigation, except in certain instances.

Mr. Parmiter. In what instances?

Mr. Rybicki. There are, I guess, a variety of factors including, you know, public safety, public interests, things of that nature.

Mr. Parmiter. And who makes that judgment on public safety or public interest?

Mr. Rybicki. I don't know in all cases.

Mr. Parmiter. Okay. When you mentioned discussions about whether to confirm that there was an investigation, who was involved in those discussions?

Mr. Rybicki. So I know -- excuse me, I'm sorry. I know in the one instance that I'm thinking of, the Director discussed with -- or the FBI discussed with the Department of Justice due to Hill appearances, I believe, that were going to happen whether to acknowledge the investigation if asked. There might have been other instances. That's the one I'm recalling, though.

Mr. Parmiter. And in that instance, who at DOJ did -- and you said the Director, but I think then you said the FBI, so was it the Director that had discussions?

Mr. Rybicki. It was a meeting with the Director and the Attorney General.

Mr. Parmiter. Okay. And was anyone else in that meeting?

Mr. Rybicki. Yes.

Mr. Parmiter. Okay. Who else was in that meeting?

Mr. Rybicki. I was there. I can't recall all of the participants, so I don't want to -- I don't want to speculate, but I know, certainly the Director and the Attorney General, myself. There were representatives from, I believe, the AG's office and the Deputy Attorney General's office, but again, I can't -- I'm not recalling the individuals as I sit here. I know that at least one representative of the national security division at DOJ was present.

Mr. Parmiter. Okay. And you said Attorney General, at the time the Attorney General was --

Mr. Rybicki. Loretta Lynch.

Mr. Parmiter. Thank you.

Mr. Breitenbach. Who from --

Mr. Rybicki. The individual I'm talking was George Toscas. I don't know if he was the only one, but I remember him being there.

Mr. Parmiter. Okay. So speaking of DOJ, and in particular, NSD, what was the role of Mr. Toscas, and we also understand Mr. Laufman, David Laufman, with respect to the investigation? What was their role?

Mr. Rybicki. Sure. My understanding is that Mr. Toscas is the Deputy Assistant Attorney General over counterterrorism and counter espionage at the National Security Division, and Mr. Laufman is the head of the counterespionage section, so they were supervisors over the prosecutors who were working the case.

Mr. Parmiter. Okay. And as the Deputy AG was Mr. Toscas Mr. Laufman's supervisor, as far as you're aware?

Mr. Rybicki. I believe he is.

Mr. Parmiter. Okay. Were there other DOJ line attorneys involved in the investigation like whether either lower level trial attorneys, at Main Justice or AUSAs from the field?

Mr. Rybicki. That's my understanding, yes.

Mr. Parmiter. There were others involved? Do you know who those people were?

Mr. Rybicki. I don't remember their names as I sit here. There were -- I know there were two who briefed the Attorney General at the end, and I'm just not recalling the name right off the top of my head here, and I don't know if they were the only ones.

Mr. Parmiter. Were they line attorneys from NSD? Were they

AUSAs?

Mr. Rybicki. I believe they were line attorneys from NSD.

Mr. Parmiter. You said they briefed the Attorney General at the end, at the end of what?

Mr. Rybicki. Correct. So at the I forget the exact date, I believe it was July 6th when the Attorney General convened a meeting to decide whether to pursue charges they briefed the Attorney General.

Mr. Parmiter. So let's talk about, you know, investigative techniques a little bit. In the discussions with the Director that were happening monthly and then weekly, [REDACTED]

Mr. Rybicki. I can't recall specifics. I know there were discussions about whether -- I'm thinking of one instance -- whether to seek legal process for two specific items, I'm recalling that, so.

Mr. Parmiter. Was it for laptops?

Mr. Rybicki. It was for laptops?

Mr. Parmiter. Whose laptops?

Mr. Rybicki. For two attorneys related to the case.

Mr. Parmiter. [REDACTED]. [REDACTED]

Mr. Schools. [REDACTED]

Mr. Parmiter. Okay. Well, let's talk about other investigative matters. Did you -- to your knowledge, did the FBI execute any search

warrants?

Ms. [REDACTED]. Do you know? We would object to that. Can I confer with my client?

Mr. Parmiter. We can go off the record.

[Discussion off the record.]

Mr. Rybicki. Thank you.

Mr. Parmiter. So the question was --

Ms. [REDACTED]. Can you repeat the question?

Mr. Parmiter. The question was whether or not the FBI executed any search warrants, to your knowledge?

Mr. Rybicki. I am not sure. I am not sure the answer of that sitting here.

Mr. Parmiter. Okay. Did the FBI conduct any electronic or physical surveillance in the matter?

Ms. [REDACTED]. Can I confer with my client on that, please?

Ms. Jayapal. Of course. Let's go off the record.

Mr. Rybicki. Thank you.

Mr. Parmiter. Okay. So we're back on the record. So the question was whether or not the Bureau conducted any electronic or physical surveillance to your knowledge.

Mr. Rybicki. I don't recall, to my knowledge.

Mr. Parmiter. Okay. So other than interviews then, did the FBI conduct interviews?

Mr. Rybicki. Yes.

Mr. Parmiter. Of how many people, do you recall?

Mr. Rybicki. I don't recall.

Mr. Parmiter. Okay. Are you aware of any other investigative techniques other than interviews being used in this case?

Mr. Rybicki. Yes.

Mr. Parmiter. What other investigative techniques were used?

Mr. Rybicki. I'm sorry?

Mr. Parmiter. To your knowledge. Let's preface this all with to your knowledge.

Mr. Rybicki. To my knowledge, I don't know the actual techniques because I wasn't sort of in that level of detail, but I know there were forensic examinations of various, sort of, electronic devices.

Mr. Parmiter. Okay. Such as laptops?

Mr. Rybicki. Such as laptops. And other devices.

Mr. Parmiter. Is it normal in your -- to your knowledge for an investigation like this not to use legal process, or any other investigative techniques beyond the ones you just described?

Mr. Rybicki. I couldn't answer that in the abstract, partly because of my position, I just -- I'm not involved in that level of detail in the investigations.

Mr. Parmiter. So let's talk about things you were privy to then. Were there disagreements during the -- that you're aware of during the weekly updates, the monthly updates with the Director, and disagreements internal to the FBI or with the Justice Department over what investigative techniques to use?

Mr. Rybicki. Yes.

Mr. Parmiter. Okay. And what were those disagreements, to the extent that you were made aware of them during the meetings?

Mr. Rybicki. Sure. One that I'm recalling was -- the one instance that I'm recalling is whether to seek access to the two laptops belonging to the attorneys.

Mr. Parmiter. Okay. And what was the nature of the disagreement?

Mr. Rybicki. It was a disagreement between the investigative team and what I will call the prosecution team.

Mr. Parmiter. Over whether to seek access to the laptops at all, or how to seek access to the laptops?

Mr. Rybicki. Whether to seek access at all.

Mr. Parmiter. Okay. And what was the nature of the disagreement? You know, who was advocating for seeking access to the laptops and who was not?

Mr. Rybicki. May I consult one second?

Mr. Parmiter. Sure.

Mr. Rybicki. Thank you.

Mr. Parmiter. You're welcome. So I guess the question was, you know, who was advocating for seeking the laptops and who was advocating for not seeking the laptops?

Mr. Rybicki. Sure. I don't know the specific individual, but what I will call the investigative team, so the FBI side was advocating to get access to the laptops, and the Department of Justice -- and, again, I don't know the level -- did not want access to those laptops,

or did not want to authorize access to those laptops.

Mr. Parmiter. You don't know the level, but do you know the entity at DOJ?

Mr. Rybicki. I don't. That might have been discussed in these updates. Just sitting here, I don't recall.

Mr. Parmiter. Okay.

Mr. Somers. What did you mean by authorize? You said they didn't want to authorize?

Mr. Rybicki. Didn't want to authorize any access to it.

Mr. Somers. Authorize whom, the FBI?

Mr. Rybicki. The FBI.

Mr. Somers. Authorize them to ask for the laptops?

Mr. Rybicki. So I just want to be precise, because I don't know whether they sought by consent first. I just don't recall that level, so I want to be careful, if that's what you're asking.

Mr. Somers. That's what I'm getting at.

Mr. Rybicki. So process versus consent. I don't recall that sitting here.

Mr. Somers. So did the DOJ attorneys, they didn't want to authorize a search warrant or other compulsory --

Mr. Rybicki. Again, I just want to be careful only because my recollection, I can't remember whether the Bureau sought consent first and then were seeking -- if they were denied consent access to sort of compulsory process. I just don't have that level of recollection on it. I'm sure that was discussed in these updates, just sitting here

I don't remember.

Mr. Somers. And you also don't remember are we talking national security division or U.S. attorneys?

Mr. Rybicki. Yes, I would be speculating. I don't know.

Mr. Somers. And the investigative team, you referred to "investigative team," is that just FBI or are there prosecutors on the investigative team?

Mr. Rybicki. So, I'm using that term just to talk about FBI here. I mean, they certainly work jointly with.

Mr. Somers. I just mean what were you referring to.

Mr. Rybicki. Yes, I was referring here just to FBI.

Mr. Somers. Thank you.

Mr. Rybicki. Yes, certainly.

Mr. Parmiter. But ultimately the FBI did gain access to the laptops in question, right?

Mr. Rybicki. That's my recollection.

Mr. Parmiter. And do you remember how access was gained?

Mr. Rybicki. I believe I do, but I'm not certain. Again, that's a level of -- I believe I recall hearing about the resolution of it, but that's a level of detail that I don't think I was involved with.

Mr. Parmiter. Okay. Let's back up briefly to, you know, one of the investigative techniques that the FBI relied on you said was interviews.

Mr. Rybicki. Correct.

Mr. Parmiter. You didn't recall how many people were

interviewed, but do you remember who was interviewed? Can you remember people that were interviewed by the Bureau in this case?

Mr. Rybicki. I probably could, especially if I was prompted, but I don't think I would have the universe of knowledge on that.

Mr. Parmiter. So you didn't remember how many people. Do you remember about how many people?

Mr. Rybicki. I don't. I would be speculating.

Mr. Parmiter. Okay. Even if you were prompted was it two dozen people, was it more?

Mr. Rybicki. I believe it was more, but, again, I would be speculating. It is just not a level that I would be -- even if updates were being given, it is not something that would for my role that would be -- you know, need to be interested in.

Mr. Parmiter. Was there discussion at the regular meetings with the Director about the interviews that had been conducted and were going to be conducted?

Mr. Rybicki. Yes, that's my recollection.

Mr. Parmiter. And during that -- those meetings, the agents didn't say we have now interviewed this many people, they would just talk about interviews that had been conducted?

Mr. Rybicki. I'm certain they probably gave numbers and things like that, but, again, it is not something that I'm remembering here or, you know, would have considered important to me at the time.

Mr. Parmiter. You were in the meeting with the Director when he was told by Attorney General Lynch to call the Clinton email

investigation a "matter." Is that correct?

Mr. Rybicki. That's correct.

Mr. Parmiter. When did this meeting occur?

Mr. Rybicki. My recollection is fall of 2015. I don't remember the exact date. I do remember that both the Director and Attorney General Lynch had Hill appearances coming up, and that's what prompted the meeting.

Mr. Parmiter. By Hill appearances you mean testimony before congressional committees?

Mr. Rybicki. That's my recollection, yes.

Mr. Parmiter. And where the did the meeting occur?

Mr. Rybicki. At the Department of Justice command center.

Mr. Parmiter. Okay. Who else was present at that meeting?

Mr. Rybicki. Again, I don't remember all of the folks.

Certainly the Director and the Attorney General, Attorney General Lynch. Again, my recollection is that AG's office and Deputy Attorney General's office staff were there. I don't recall whether the Deputy Attorney General was present. I was present. I don't recall who else from the FBI was present. It is likely the Deputy Director was there. Again, I just don't recall at this time.

Mr. Breitenbach. Is this a different meeting from the one you previously described where you were discussing whether to disclose the investigation or is this the same meeting?

Mr. Rybicki. I was thinking of it as the same meeting.

Mr. Parmiter. So that is the same meeting where you discussed

whether to disclose the existence of an investigation and then the matter?

Mr. Rybicki. Yes. Again, I think it is likely that, you know, there are other discussions about whether to disclose that. This is the one I'm remembering, though, and especially because my recollection is that we thought that both of them may be asked about it, and, you know, how would we respond, how would they respond.

Mr. Parmiter. So did the Attorney General direct the Director to call it a "matter" because of the congressional testimony, or in connection with his congressional testimony, or just generally speaking?

Mr. Rybicki. I would say just generally speaking. Yes, I don't recall the specific words used, but I would say just generally.

Mr. Parmiter. Okay. And how did the Director react to that directive?

Mr. Rybicki. Sure. I think in the meeting I don't recall his reaction. I remember discussing afterwards with him, and I don't know if that was one-on-one, or with others at the FBI, just that that would be given what had been disclosed already about it that that would be a very hard line to hold.

Mr. Parmiter. And do you recall saying anything specific to him about the characterization, you know, of the investigation as a matter following that meeting, and whether or not you should push back against the Attorney General's directive?

Mr. Rybicki. I don't recall.

Mr. Parmiter. Do you recall anyone else saying anything to him about that?

Mr. Rybicki. I don't recall. Again, I remember having discussions about it and, again, most likely with others in the FBI, I just don't recall if there were discussions about whether to push back or not.

Mr. Parmiter. In your experience as chief of staff, I imagine you have witnessed a lot of investigations proceed from the FBI. Are you aware of any other instances where the Attorney General or anyone else from DOJ directed the FBI to refer to an investigation as anything other than an investigation?

Mr. Rybicki. I'm not.

Mr. Parmiter. Okay. Do you know what the other DOJ personnel's opinion of the Attorney General's directive was, particularly someone like George Toscas?

Mr. Rybicki. Certainly. I remember a sort of quip that he said after the meeting that could indicate what he thought of it.

Mr. Parmiter. What was the quip?

Mr. Rybicki. It was basically -- and I don't know if this is verbatim, but it was basically I guess you're the Federal Bureau of matters now.

Mr. Somers. How was this sort of passed on? You go to the meeting with the Attorney General. She directs the investigation be called a "matter." Certainly not everyone involved in the investigation was in that meeting, you know, what was the report out

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of that meeting? Were the investigators told to call it a "matter"?
I mean, how did that trickle out?

Mr. Rybicki. I don't know the answer to that. I don't know
whether it was communicated or not to the investigative team.

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[11:15 a.m.]

Mr. Somers. And was it in fact called a matter?

Mr. Rybicki. I don't recall, as I sit here. I remember as part of those discussions that it was mentioned to Mr. Parmiter with the Director, discussing, you know, even if you were to say matter, that's a not a distinction that I think would be meaningful to people. And, again, I don't remember his specific words, but I do remember, I believe, reading sort of reporting after these appearances where it basically said investigation, you know, instead of matter.

Mr. Somers. And do you recall -- you mentioned George Toscas' reaction to the matter versus investigation. Do you recall anyone else's reaction?

Mr. Rybicki. That's the only one that stood out to me.

Mr. Parmiter. Other than Attorney General Lynch and other FBI employees, did the Director, to your knowledge, discuss the Clinton matter with any other administration officials?

Mr. Rybicki. I'm sorry, I just want to make sure.

Mr. Parmiter. By this I mean anyone outside of the -- obviously, outside of the Bureau --

Mr. Rybicki. Sure.

Mr. Parmiter. -- outside of DOJ.

Mr. Rybicki. Yeah.

Mr. Parmiter. Anyone else?

Mr. Rybicki. As I'm sitting here right now, I mean, I would want to think about that carefully. I don't recall any, as I'm answering

right now, but I would want to give it a minute if we wanted to revisit it.

Mr. Parmiter. Do you ever recall him discussing it with the President?

Mr. Rybicki. No.

Mr. Parmiter. Do you recall him discussing it with the White House?

Mr. Rybicki. No.

Mr. Parmiter. Let's go back to what you said about publicly disclosing the investigation. I believe you said that in certain circumstances involving public safety or the public interest. So I assume in this case, you know, the consideration was of the public interest. Is that correct?

Mr. Rybicki. I think that's right. I think the primary goal, and if I may, as the Director articulated it, there were basically three main concerns that he had, all surrounding the integrity of the investigation.

Mr. Parmiter. Okay. So do you recall specific discussions with the Director about the need to confirm that the investigation was ongoing? I know we talked about the meeting at DOJ, but, you know, as generally speaking, the FBI doesn't confirm or deny existing investigations. So do you recall ongoing discussions about the need to confirm the matter?

Mr. Rybicki. My recollection is that there were discussions because of sort of what had been out there in the public already.

Again, I think my recollection is that the inspector general's referral was public comments by Secretary Clinton herself, you know, and so I know that was all being weighed in the context of would it be disingenuous for the Bureau to either no comment or give the standard response if all of that information was already out there.

Mr. Parmiter. Okay. But, I mean, even in normal cases where, you know, the press is reporting about, you know, something the FBI is allegedly doing, does the Bureau generally confirm or deny even things that are reported in the press?

Mr. Rybicki. I would say generally, no.

Mr. Parmiter. Okay. So how many discussions do you recall with Director Comey about sort of the process by which you all decided to publicly confirm the investigation?

Mr. Rybicki. I don't recall.

Mr. Parmiter. Who ultimately made the decision to publicly confirm the investigation?

Mr. Rybicki. I don't remember a decision point. I would have to say the Director, Director Comey.

Mr. Parmiter. During those meetings that we talked about already, the briefing meetings, did Director Comey ever suggest any particular individual be interviewed?

Mr. Rybicki. I don't recall, sitting here.

Mr. Parmiter. Okay. Do you recall specifically if he said, you know, we need to interview Huma Abedin, we need to interview Cheryl Mills, or any of the other people that were, you know, high ranking

officials at the State Department or anything else?

Mr. Rybicki. Sure. I don't recall.

Mr. Parmiter. Okay.

Mr. Somers. Did anyone express any caution about interviewing certain high-ranking officials?

Mr. Rybicki. I don't recall in-depth discussion on that. Just sitting here, I'm not saying it didn't occur, I don't recall either way on that one.

Mr. Somers. Do you recall anyone discouraging the investigators or others from interviewing any particular individual?

Mr. Rybicki. No.

Mr. Somers. No prohibitions on interviewing anyone, that you're aware of?

Mr. Rybicki. Not that I can recall.

Mr. Parmiter. So on the subject of those ongoing meetings, is that a normal occurrence for, you know, a typical investigation, for a SIM, or for any other investigation to have a regular update meeting for the Director?

Mr. Rybicki. No.

Mr. Parmiter. Okay. So I guess I'm interested in your -- a little more about your role at those meetings. You know, was your role just simply to support the Director or did you have some other role?

Mr. Rybicki. I would say that's a fair characterization, to support the Director, and I was frequently in and out during the meeting, you know, handling other matters, you know, things like that,

but yeah, primarily to support the Director. I would characterize the participants as sort of the folks who were briefing on the investigation and involved in the investigation, and then the executives, and then the lawyers.

Mr. Somers. When you say you characterized -- I've read your OSC testimony, is that what you're referring to, the midyear exam team and the executive team, I think that's how you refer to them in that interview?

Mr. Rybicki. Yeah, there was a lot of confusion in that interview, and so I was trying to help them understand the difference between the team that was providing the updates. And so I think those are the ones I'm referring to -- when I talked to Mr. Parmiter about the updates for the Director, that's what I was referring to in the OSC transcript as the executive team, just for ease, and then the investigative team I was thinking of the people -- you know, the others who were doing -- in the FBI, the agents, analysts, and others, doing in the actual investigation.

Mr. Somers. And that's the midyear exam team, I think that's how you referred to it -- or refer to it how you refer to it, but something along those lines?

Mr. Rybicki. If I'm recalling correctly in that transcript, I was referring to the midyear executive team at that briefing team, and then the investigative team as the others.

Mr. Somers. Midyear review team, midyear exam team, that's the investigative team?

Mr. Rybicki. That would be the investigative team. Yeah, it got a little confusing in that transcript, so I was trying to help them understand how it worked.

Mr. Somers. And then does that -- when you say the investigative team, we discussed that a little bit earlier, is that midyear exam investigative team, is that all FBI or is that broader?

Mr. Rybicki. When I'm using it, I'm using it to mean the FBI.

Mr. Somers. And that also goes for your OSC interview?

Mr. Rybicki. Right.

Mr. Somers. Okay.

Mr. Parmiter. So that's the first hour. I guess we'll take a short break and then we'll turn it over to our minority counterparts.

Mr. Rybicki. Thank you.

[Recess 11:25 a.m. to 11:35 a.m.]

Ms. Sachsman Grooms. We'll go back on the record.

Just reintroducing ourselves. My name is Susanne Sachsman Grooms, this is Aaron Hiller, Representative Krishnamoorthi, and Representative Plaskett. Mr. Krishnamoorthi is going to start us off, and it is 11:35.

Mr. Krishnamoorthi. Good morning. Thank you.

Mr. Rybicki. Good morning.

Mr. Krishnamoorthi. Good morning. Thank you so much for coming here on short notice, Mr. Rybicki. I'd like to ask you a few questions about your background to start out with. First of all, can you start with your educational background starting with college?

Mr. Rybicki. Certainly. I received my bachelor's degree from the George Washington University in Washington, D.C., and I received my law degree from the Catholic University of America, evening program.

Mr. Krishnamoorthi. Very good. What were you doing during the day?

Mr. Rybicki. I was working at the Department of Justice.

Mr. Krishnamoorthi. And what were you doing at the DOJ?

Mr. Rybicki. At the time, when I started, I started law school in 2004, I was in the Office of the Deputy Attorney General, and then was in the Eastern District of Virginia when I finished.

Mr. Krishnamoorthi. Very good. Did you also attend the Federal Law Enforcement Training Center?

Mr. Rybicki. I did.

Mr. Krishnamoorthi. And what do you receive upon graduation from that?

Mr. Rybicki. Certainly. I attended -- I was a Federal police officer with the United States Capitol Police. I went through the Federal Law Enforcement Training Center with the -- I believe it was called the Mixed Basic Police Training Program.

Mr. Krishnamoorthi. Very good. Well, obviously, we appreciate your service as a Capitol police officer. What certifications do you have?

Mr. Rybicki. I have a member of the bar in New Jersey and the District of Columbia.

Mr. Krishnamoorthi. Very good. Why did you make the career

choice about entering the Capitol Police?

Mr. Rybicki. I worked for the Judiciary Committee, actually right after college, interned and then worked for the Judiciary Committee. I went with the Capitol Police because of the quality of the agency and because I wanted to be a special agent with the Federal Bureau of Investigation. And so I entered with Capitol Police, but then had the opportunity to work for the Department of Justice, unfortunately, shortly after I went through the academy and was on the job for awhile.

Mr. Krishnamoorthi. Was that with the House Judiciary Committee?

Mr. Rybicki. It was with the House Judiciary Committee, the Crime Subcommittee. Mr. McCollum was the Chairman at the time.

Mr. Krishnamoorthi. Very good. Now, you made the decision to join the Department of Justice in 2001. Why did you make that decision?

Mr. Rybicki. Again, I had always wanted to work for the FBI. My boss from the Hill became an assistant attorney general for Legislative Affairs, and offered me the opportunity to come work with him.

Mr. Krishnamoorthi. In more than 15 years of your service with the DOJ you served in numerous capacities in different offices. I'd like to ask you about just a few of your many appointments. First of all, you worked at the Office of Intelligence, Policy, and Review. What did that office do?

Mr. Rybicki. Sure. Congressman, that was the predecessor to the current Office of Intelligence -- Office of Intelligence. OIPR

at the time processed all of the FISAs for the Department.

Mr. Krishnamoorthi. And what did you do at that office?

Mr. Rybicki. Sure. My role, I had just come from the Office of Legislative Affairs, and they hired me into OIPR, Office of Intelligence, Policy, and Review, to handle their semiannual reporting requirement on FISA to the Congress. So my job was to process those reports and keep the files up-to-date in order to report to Congress, as well as some other duties. I was a nonattorney at the time.

Mr. Krishnamoorthi. By the way, you joined after September 11th?

Mr. Rybicki. I joined approximately 2 weeks before September 11th.

Mr. Krishnamoorthi. Okay. So you were very busy after you joined?

Mr. Rybicki. Yeah. Very new and very busy, yeah.

Mr. Krishnamoorthi. You served in the Office of the Deputy Attorney General during the George W. Bush administration. What work did you do in that office?

Mr. Rybicki. Certainly. I was detailed to that -- a temporary duty assignment from the OIPR that we just spoke about to the Office of the Deputy Attorney General to work on basically special projects for the deputy attorney general, working very closely with his chief of staff.

Mr. Krishnamoorthi. Who was with the deputy attorney general at the time?

Mr. Rybicki. Jim Comey.

Mr. Krishnamoorthi. Jim Comey, okay. In your last appointment before joining the FBI, you served in a leadership role in the Justice Department's National Security Division. Could you tell us a little bit about what the National Security Division does?

Mr. Rybicki. Certainly, Congressman. So after I graduated from law school, I was then hired on as an honors attorney with the Department and came back with the Office of Intelligence, which was part of the National Security Division. The National Security Division was formed a few years after 9/11 to centralize the national security functions of the Department, not including the FBI. So the counterterrorism and counterespionage sections from the criminal division were part of that, and they handled the prosecution side of the house. And then the OIPR, the office we spoke about before, became the Office of Intelligence, and they handled the FISA work for -- the Foreign Intelligence Sovereign Immunity Act -- work for the Department as well as oversight of that process.

Mr. Krishnamoorthi. Okay. I understand. So just to put this in chronological order, you were at the DOJ and then you went to law school at night for a few years between 2001 and 2004, and then went to the -- I guess the National Security Division?

Mr. Rybicki. Sure. The law school was 2004 to 2008.

Mr. Krishnamoorthi. Oh, I'm sorry.

Mr. Rybicki. Yeah. That's okay. And then with the National Security Division right after that.

Mr. Krishnamoorthi. I understand. Now, when did you join the FBI?

Mr. Rybicki. I initially started as a detailee to the FBI in November of 2013.

Mr. Krishnamoorthi. Why did you join the FBI?

Mr. Rybicki. I had the opportunity -- so a mentor of mine, Chuck Rosenberg became the chief of staff to the Director of the FBI, and he offered me the opportunity to come over as his deputy.

Mr. Krishnamoorthi. Now, what is your current title at the FBI?

Mr. Rybicki. Chief of staff and senior counselor to the Director.

Mr. Krishnamoorthi. Okay. And what does the chief of staff do?

Mr. Rybicki. General duties are to support the Director of the FBI and to supervise the Office of the Director.

Mr. Krishnamoorthi. Okay. And when did you become chief of staff?

Mr. Rybicki. May of 2015.

Mr. Krishnamoorthi. May of 2015. So that would be for former Director Comey?

Mr. Rybicki. Correct, Congressman.

Mr. Krishnamoorthi. And you continue to serve in the current role under Director Wray?

Mr. Rybicki. That's correct. I served -- so Director Comey, and then I served for Acting Director McCabe in that summertime period, and Director Wray asked me to stay on for him.

Mr. Krishnamoorthi. And how big is that office? How many employees are in that office?

Mr. Rybicki. The office proper has [REDACTED] that directly support the Director. The Office of the Director, as it's defined by the Bureau, also encompasses various other offices in the Bureau, like the Office of Public Affairs, Congressional Affairs, and so forth. So on paper it looks quite large. There's about [REDACTED] or so folks in our direct sort of chain, and then in the -- you know, reporting to me, about five or six folks directly.

Mr. Krishnamoorthi. Okay. So you have a lot of administrative responsibilities as part of your current role, right?

Mr. Rybicki. Correct.

Mr. Krishnamoorthi. Okay. Now, in your long and distinguished career at the DOJ and the FBI, have you ever let your personal political views, whatever they may be, influence in any way your official actions?

Mr. Rybicki. No, sir.

Mr. Krishnamoorthi. In your career at the DOJ and the FBI, have you ever witnessed any law enforcement personnel letting their personal political views influence in any way their official actions?

Mr. Rybicki. No, sir.

Mr. Krishnamoorthi. What kind of structures and processes are in place at the FBI to ensure that the decision to recommend prosecution or to not recommend prosecution of an individual cannot be based on their personal political bias?

Mr. Rybicki. Congressman, I don't know if I can articulate all

of them because I'm not in the, what I would call the operational side of the house. I alluded earlier to the most FBI employees, in fact, there are two direct reports to the Director, myself and the Deputy Director of the FBI. The vast majority of FBI employees report up through the Deputy Director, what I'll call the operational side of the house. So almost the entirety of it. So any investigation would fall under the Deputy Director.

And so I only bring that up because, you know, I don't have -- I don't have any direct supervision of the investigations and operations, just for clarity.

But going to your question of sort of what processes may be in place, you know, the DI0G, which I referenced earlier, is the guide that governs FBI investigations, and in there there are various processes that -- for guiding the FBI's investigations, including various approvals, various consultations, for instance, with the Office of the General Counsel and others.

Mr. Krishnamoorthi. And if -- you know, if there's any detection of any political bias in an investigation, what are you instructed to do?

Mr. Rybicki. I don't know the answer to that, Congressman. I know we have a robust inspection division that operates within the FBI. That inspection division conducts oversight and investigation, and they work very closely with our Office of Professional Responsibility, and also with the Department of Justice's Office of the Inspector General.

Mr. Krishnamoorthi. I see. And that office of -- you called it inspection division?

Mr. Rybicki. The inspection division.

Mr. Krishnamoorthi. I see. And that is relatively independent within the FBI?

Mr. Rybicki. Yes. I mean, it falls under the chain of command, but they do what they call inspections of offices, and then they also investigate allegations of misconduct.

Mr. Krishnamoorthi. I see. You know, what is your reaction to recent charges of political bias that have been leveled at the FBI's leadership with regard to the handling of the Clinton investigation?

Mr. Rybicki. My personal reaction is one of sadness, because I respect the institution immensely. And so anything that would undermine the credibility of the -- in such a critical institution, you know, for our Nation, saddens me.

Mr. Krishnamoorthi. Mr. Rybicki, I want to kind of leave this as a -- I'm not sure what that meant, but -- I want to thank you again for your distinguished service. I want to leave you with kind of our sentiment that, you know, you and your team have been critical to kind of the safety and well-being of our Nation, and I want to thank you for your, you know, distinguished work over the last two decades. And I believe our Nation is safer because of your work. Thank you.

Mr. Rybicki. Thanks, Congressman.

Ms. Plaskett. Good morning still. How are you?

Mr. Rybicki. Good morning. Well, thank you. How are you?

COMMITTEE SENSITIVE

Ms. Plaskett. Good. And thank you for the work that you've been doing thus far. You and I have had some overlap at the Justice Department. Chuck was a colleague of mine. As well as, you know, us both having worked for -- well, at the time he was the DAG, Deputy Attorney General Comey. And Chris Wray is not only someone who I respect greatly as a former supervisor of mine, but as an individual. And I want to thank you as well and, you know, for someone who -- I also went to law school at night while working during the day. I think that makes us much more focused attorneys than others would be. We use our time maybe a little more wisely. Don't attend as many afterschool functions, shall we say, as everyone else. Right?

I've been troubled by the recent attacks against the Department of Justice, both personally as someone who holds in the highest esteem the fact that I worked there in Main Justice, and the FBI, which reports to the Department of Justice, and the attacks about the independence of the institution as a whole, and the integrity of the employees.

I just wanted to ask you briefly, a comment you just made, when the Congressman asked you about statements that were made with regard to the investigation of Hillary Clinton, Secretary Clinton, at the time. And you said that they saddened you. What I wasn't clear of, was it the conduct of the investigation that saddened you or was it the statements about the investigation that saddened you?

Mr. Rybicki. I think it's -- right, I want to thank you for the opportunity to clarify that if I left a misimpression. I think my comments were directed at sort of attacks on the institution. I

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think -- I think you can agree or disagree with decisions that were made, but what I think is very important is to know that they were done in a proper way. So attacks that they, you know, were based on improper decisions or influence I think is what saddens me.

Ms. Plaskett. Got you.

Mr. Rybicki. But I think there's certainly room for oversight and for, you know, legitimate asking questions about why decisions were made.

Ms. Plaskett. Hence our being here this morning, correct?

Mr. Rybicki. Yes.

Ms. Plaskett. So on December 3rd of 2017, President Trump tweeted: After years of Comey, with the phony and dishonest Clinton investigation, and more, running the FBI and its reputation in tatters, worst in history, but fear not, we will bring it back to greatness.

Do you agree with the President's statement that the FBI's reputation is in tatters and worst in history at that time on December 17th -- December 3rd of 2017?

Mr. Rybicki. I'd prefer not to comment directly on the statement, but I would like to -- I don't believe that the institution is in tatters by any means. In fact, I think the FBI is as strong as it ever was, and the core functions of the FBI continue on no matter who is the Director. The people may feel some effects of outside statements that are being made, and that is of concern, but I think the day-to-day work of the Bureau remains as solid as ever.

Ms. Plaskett. So it would be your concern that statements may

impugn the reputation of the FBI but not the actions of the FBI agents themselves?

Mr. Rybicki. I'm sorry, Congresswoman, can you just repeat that one more time?

Ms. Plaskett. So it would be your characterization that the statements may impugn the character of the reputation of the FBI but not the work of the FBI itself that would cause that reputation to be in question?

Mr. Rybicki. That's correct. I mean, any misconduct or any other allegation, as I mentioned to the Congressman, are handled appropriately. But, you know, to your point, the great work, you know, of the people of the FBI continues.

Ms. Plaskett. Thank you. And the characterization that was made in that statement of the Clinton investigation, how would you characterize the overall conduct of that investigation?

Mr. Rybicki. I think it was done in a thorough and professional way.

Ms. Plaskett. And what effect -- now, there may be external effective statements like that. What effect do you think that has on the morale of the rank and file of the FBI, that the Commander in Chief would make statements of that nature? Knowing that you do not have direct report over those individuals, but sitting in the office that you do and having a purview over everyone.

Mr. Rybicki. Sure. I think -- I think that's right. I think anything, you know, just as anybody would in any line of work, any time

that you're being questioned like that, I think it could have an effect.

Ms. Plaskett. Okay. Thank you. On December 15th of 2017, after the first statement, our President, before boarding Marine One to visit Quantico, made the statement: Well, it's a shame what's happened with the FBI, but we're going to rebuild the FBI. It'll be bigger and better than ever, but it's very sad when you look at those documents and how they've done what is really, really disgraceful, and you have a lot of very angry people that are seeing it.

Do you agree with the President that the FBI has done something really, really disgraceful?

Mr. Rybicki. I don't know the context to which he was referring, but I do not believe so.

Ms. Plaskett. Okay. And then it would appear that the President's statements have, in fact, been echoed by a number of my fellow Members of Congress. On December 15th -- on December 5th, I'm sorry, after the first tweet from the President about that, the Oversight Committee Chairman, Mr. Gowdy, tweeted that the Bureau has had a really bad last 18 months. Would you agree that your last 18 months have been really bad?

Mr. Rybicki. I think it was -- it's been a very difficult 18 months.

Ms. Plaskett. Uh-huh. And what has made that difficult?

Mr. Rybicki. I would say the events and circumstances of the last period.

Ms. Plaskett. Would one of those events have been the firing of

Director Comey?

Mr. Rybicki. Yes.

Ms. Plaskett. And looking back -- or actually, leading up to when you look back to the lead-up to Director Comey's dismissal, would you agree or would you say that that created a loss of confidence before his firing, the events that led up to his firing in the rank and file?

Mr. Rybicki. I'm sorry, I didn't --

Ms. Plaskett. Would you say that there was a loss of confidence of the rank and file of the FBI leading up to his firing?

Mr. Rybicki. Lost confidence in the Director?

Ms. Plaskett. Yes.

Mr. Rybicki. No.

Ms. Plaskett. Why would you not think so?

Mr. Rybicki. Based on people I talked to, just, you know, general statements from within the Bureau, my own impression of what people thought of the Director.

Ms. Plaskett. And what were those reactions that people had when he was fired?

Mr. Rybicki. I think -- again, I think there was sadness. I think there was --

Ms. Plaskett. Uh-huh.

Mr. Rybicki. -- sadness to lose Director Comey personally, but also determination that the work of the Bureau would continue no matter who was leading.

Ms. Plaskett. Who was the Director. Right.

What was your reaction? Did you share in that sadness?

Mr. Rybicki. I did. I considered Director Comey to be a friend and a mentor, and so, yes, it was sadness.

Ms. Plaskett. Did you find him to be an effective director?

Mr. Rybicki. I did.

Ms. Plaskett. And do you believe that the work of the Bureau has continued?

Mr. Rybicki. Yes.

Ms. Plaskett. And under Director Wray, has there been a quantum shift in direction of the Bureau?

Mr. Rybicki. No.

Ms. Plaskett. So the Bureau has continued to do the same work that it was doing under Director Comey?

Mr. Rybicki. Correct.

Ms. Plaskett. Would you say that the leadership transition has been smooth?

Mr. Rybicki. The way I've characterized it is the core work of the FBI, the everyday work protecting the Nation and the American people and investigating crimes, has continued unimpeded, despite the Director being fired in May. What I would say has been impact our sort of long-term planning and policy decisions, things of that nature, so that's been an impact, but the very core of what the FBI does has been unimpeded.

Mr. Krishnamoorthi. Excuse me, folks. Could you please take your conversations out of the room? Thank you.

Ms. Plaskett. When you say the long-term planning, is that a direct outcome of the firing, the effect that that has had on the planning?

Mr. Rybicki. I think that's accurate. I would say any transition period would have caused that as well, especially one as abrupt.

Ms. Plaskett. Okay. I have no further questions at the time. Thank you.

Mr. Rybicki. Thanks, Congresswoman.

Ms. Sachsman Grooms. I just want to start by covering a couple of things that went over in the previous hour. The DIORG is the guide that the FBI that basically sets the protocols for investigations. Is that an accurate description?

Mr. Rybicki. That's right. It's basically the -- I don't know the technical term, but it's the guide that -- there's AG guidelines that govern -- Attorney General guidelines that govern investigations, and then the DIORG seeks to implement those Attorney General guidelines.

Ms. Sachsman Grooms. And the DIORG, I assume, sets forth specific types of cases that become then sensitive investigations. Is that accurate?

Mr. Rybicki. That's my recollection, yes.

Ms. Sachsman Grooms. I assume one of those types of cases is an investigation of an attorney. Would that be accurate?

Mr. Rybicki. I can't say for certain that that's the case. It seems likely. I mean, the two that stick out in my head are

investigations dealing with the news media and then elected officials. Attorneys seems likely, I just --

Ms. Sachsman Grooms. And so it sets forth categories of people or people based on their occupation that you're investigating for which you'd need to set forth specific additional areas of review. Is that accurate?

Mr. Rybicki. Different approvals, different review, yes.

Ms. Sachsman Grooms. And so in the Clinton example, I assume that case was set into the special investigations because of the elected official aspect -- the political official?

Mr. Rybicki. So I don't know the answer to that. I don't know whether it was designated a SIM or not, so I hesitate to answer. I just -- I don't know the answer to that.

Ms. Sachsman Grooms. Okay. So you're not sure if the Clinton investigation was designated as a special investigation?

Mr. Rybicki. According to the DIOG, right.

Ms. Sachsman Grooms. I believe that in the last hour you had described it as a sensitive investigation, though. Is that accurate?

Mr. Rybicki. I don't know that I said that. I mean, we certainly -- you know, by the way it was briefed, I think in the questioning where I said it might be likely to have been, I just don't know. That would fall more on the operational side of the house, so I just don't know whether it was formally designated, you know, a SIM. If it wasn't formally designated, it was certainly treated as such.

Ms. Sachsman Grooms. And were there -- you had said that in some

sentence, right, there were investigative techniques that either required additional approvals or would not be generally taken, and I assume for that you were thinking of specific investigative techniques against the news media. Is that accurate?

Mr. Rybicki. Yes. Correct.

Ms. Sachsman Grooms. Were any investigative techniques not taken in the Clinton matter based on some sensitive investigation categorization?

Ms. [REDACTED]. May I confer with my client?

[Discussion off the record.]

Mr. Rybicki. Thank you.

Ms. Sachsman Grooms. Do you want me to repeat the question?

Mr. Rybicki. Would you mind?

Ms. Sachsman Grooms. So were any categories of investigative techniques not taken in the Clinton investigative matter due to the fact that it was categorized as a sensitive investigation?

Mr. Rybicki. So, again, just -- I don't know that it was formally designated as a SIM. Again, it's likely that it was, so I want to be careful there. And I also, where I struggle on this one is I don't know the universe of investigative techniques, ones that may not have even come up for discussion, so I don't know that I can offer a fulsome answer to that.

Ms. Sachsman Grooms. That's on the operational side and you were not really on the operational side?

Mr. Rybicki. Correct.

Ms. Sachsman Grooms. And there's a lot of details about the investigation that you did not -- you were not aware of at the time and I assume you also now don't recall?

Mr. Rybicki. Certainly. Certainly.

Ms. Sachsman Grooms. In one of those categories you talked about in the previous hour was a dispute or a disagreement over investigative techniques that occurred between the FBI and the DOJ. And I believe that you said during that hour you thought that the disagreement was over whether to seek access at all to the laptops. Is that accurate?

Mr. Rybicki. That's accurate. There was a little confusion as to whether the Bureau sought by consent first, which I just don't recall, and then on the second part of it whether legal process should be sought.

Ms. Sachsman Grooms. And access to the laptop was, in fact, received at some point. Is that accurate?

Mr. Rybicki. Yes. In fact, the Director, who was quite insistent that the Bureau get access to those as part of a thorough investigation.

Ms. Sachsman Grooms. Is it fair to say you don't recall the specifics around what this disagreement between the FBI and the DOJ was?

Mr. Rybicki. I think that's -- it was -- I'm sure it was discussed in meetings that I was at. Again, I don't know that I have a full memory of it sitting here. Again, it falls into one of those categories of, you know, something that wouldn't impact what I was,

you know, dealing with in those meetings.

Ms. Sachsman Grooms. So you don't recall the specifics of what the Department of Justice was saying or even who at the Department of Justice was saying what could or should not be done around investigative techniques related to the Clinton matter. Is that accurate?

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. So I want to shift topics to the statement that ultimately was given by Director Comey on July 5th. Do you recall who initially drafted the statement?

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. Who was that?

Mr. Rybicki. Director Comey.

Ms. Sachsman Grooms. And what was your role in reviewing and editing the statement?

Mr. Rybicki. Sure. So I was on the initial email from Director Comey. Again, I believe it was May 2nd where he sent it with the initial draft. He instructed me to send it to other members of what I'll call that executive briefing team that we were talking about, so the ones that briefed the Director for comment basically. And then at various points I was involved in collecting comments from the team and from the Director, sort of going both ways.

Ms. Sachsman Grooms. And can we just talk through briefly who was in that category of people who were providing edits or suggestions to the draft?

Mr. Rybicki. Certainly. So it's everyone that I listed before.

I'm happy to do it again if that's helpful.

Ms. Sachsman Grooms. Actually, why don't we enter into the record the May 2nd email, and that'll make it I think maybe a little bit --

Mr. Rybicki. Okay.

Ms. Sachsman Grooms. Make this exhibit 1.

[Rybicki Exhibit No. 1

Was marked for identification.]

Ms. Sachsman Grooms. So for the record, exhibit 1 is; SJC -- it's Bates stamped SJC 140 through 143. It's an email from James Comey to Andrew McCabe, James Baker, and James Rybicki, cc'ing Jim Comey, on Monday, May 2nd, 2016, at 7:15 p.m., subject matter, midyear exam, unclassified.

Is this the May 2nd email that you were describing?

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. And so this would be the first draft that Mr. Comey had written of this statement?

Mr. Rybicki. Correct.

Ms. Sachsman Grooms. And was it unusual for Director Comey to consult with top advisors about matters that he was facing like this?

Mr. Rybicki. No.

Ms. Sachsman Grooms. You had described in the previous hour that starting from some time period -- and I'm not sure you recalled when -- in the Clinton email investigation you were getting briefings regularly about it -- or the Director was getting briefings regularly

about it, about once a month. Is that accurate?

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. And as you had those briefings and reviewed the evidence in the investigation, was there a general consensus during those meetings that the FBI investigative team was looking for evidence of criminal intent on behalf of Secretary Clinton but that they were not finding any?

Mr. Rybicki. I'm going to parse out the question, if you don't mind.

Ms. Sachsman Grooms. Uh-huh.

Mr. Rybicki. Can you repeat it one more time just to make sure I've got it?

Ms. Sachsman Grooms. Sure. Sure. So you were having regular briefings, and as you were having the regular briefings, I assume that you were discussing the evidence in the investigation that was being uncovered at the time. Is that accurate?

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. And I assume that you were also having conversations at the time about the -- that evidence and whether it would be a sufficient amount of evidence to come up with a criminal charge. Is that accurate?

Mr. Rybicki. I think that's accurate, especially the further along in the investigation that you went. The initial updates were very much, you know, what was being found, especially in sort of on the forensics side. But I think that's correct, as you went further

along and you began to see where the case was headed, I think that's accurate.

Ms. Sachsman Grooms. And at some point when you began to see where the case was headed, where did the consensus become that the case was headed?

Mr. Rybicki. The date or the time period, is that what you're --

Ms. Sachsman Grooms. No, the content. What was the general consensus about where the case was headed?

Mr. Rybicki. Oh, I'm sorry. Yes. Right. As they were looking through all the material briefing, it became the view of the team that they were not finding evidence sufficient to recommend to bring charges.

Ms. Sachsman Grooms. And was the lack of evidence sufficient to recommend to bring charges related to a lack of evidence of intent on the part of Secretary Clinton?

Mr. Rybicki. Can I confer with counsel a second?

[Discussion off the record.]

Mr. Rybicki. Thank you.

Ms. Sachsman Grooms. And so as you were discussing the general consensus, was it related to the fact that there was not a sufficient amount of evidence of Secretary Clinton's criminal intent?

Mr. Rybicki. I think that -- so it was looking at the evidence in totality, I think that could be part of it, but I don't think it was the entirety of it.

Ms. Sachsman Grooms. Okay. And what was the rest of it?

Mr. Rybicki. I think it was -- so it was you know, looking at the evidence, looking at the statutes that might be implicated in it, as well as case law, to see how cases like this may have been treated in the past.

Ms. Sachsman Grooms. And that was an ongoing discussion that the team was having during these briefings?

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. And that's these -- you've been calling it the executive team?

Mr. Rybicki. Yes. Again, I don't know at what point they started happening in the sort of timeline. Again, the early updates I would characterize as more of, you know, just what are they finding, and then it got into sort of this level.

Ms. Sachsman Grooms. Would you describe that the general consensus that you discussed was one that had developed before this May 2nd, 2016, email that is exhibit 1?

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. And is it fair to say that this May 2nd draft was at least a first draft of reflecting that consensus?

Mr. Rybicki. Yes. I think that's -- yes. I think that's accurate. I think this conveyed the Director's compilation of what the team was saying they were finding, as well as those discussions.

Ms. Sachsman Grooms. And before you received this email on December -- I'm sorry, on May 2nd, had you previously discussed with the Director doing this statement in this way, sort of the contents

of this email?

Mr. Rybicki. Sure. I don't recall. We certainly discussed it afterwards. Whether we discussed before he sent this, I don't recall.

Ms. Sachsman Grooms. Do you recall whether the majority of the sort of Clinton emails had been reviewed before this May 2nd email?

Mr. Rybicki. I don't remember the answer to that.

Ms. Sachsman Grooms. And do you think that the, generally speaking, the classification review of the emails had been largely completed before this?

Mr. Rybicki. I would be careful, again, because I'm not on the operational side. I mean, my recollection is that enough of the evidence -- sort of the forensic evidence had been reviewed to arrive at this, but I want to be careful about, you know, the fullness of that.

Ms. Sachsman Grooms. And when the Director sent you this document, did he explain why he was doing so?

Mr. Rybicki. Again, I don't recall if we spoke about it before he sent it. Again, we sent afterwards, and certainly talked about it in his updates, but I don't recall beforehand?

Ms. Sachsman Grooms. After he sent it, do you recall him explaining why he was going through this process?

Mr. Rybicki. Why he sent the email or why he would want to do it in this way?

Ms. Sachsman Grooms. Uh --

Mr. Rybicki. Make a statement in this way?

Ms. Sachsman Grooms. Yes. Why he had started drafting a

statement in this way?

Mr. Rybicki. I don't recall him saying why he specifically started drafting it. Again, because I don't recall discussing it beforehand, I know that we did. I don't recall an explanation of why he actually sent the email, if that makes sense.

Ms. Sachsman Grooms. Uh-huh. And do you recall a discussion about why he would feel that the beginning of drafting such a document would make sense?

Mr. Rybicki. I do not.

Ms. Sachsman Grooms. At the time on May 2nd when you received this draft, were you and Director Comey and the rest of that executive team and the rest of the FBI team still investigating the Clinton matter?

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. And would you characterize that the team and the Director were still open to new evidence and to changing any recommendation that you had?

Mr. Rybicki. Definitely.

Ms. Sachsman Grooms. So if any subsequent witness interviews, including the interview with Secretary Clinton, had provided the team with new evidence or new information, is it fair to say that you would have considered that evidence and made whatever changes you thought were appropriate?

Mr. Rybicki. Absolutely. In fact, that occurred. There was a meeting after the interview to ensure that this was still what the

Director wanted to do.

Ms. Sachsman Grooms. So we have a number of documents, and I'm going to walk you through a couple of them between May 2nd and July 4th that show that there were a number of communications among the executive team at the FBI about Director Comey's statement. And it also looks like Director Comey generated a number of drafts himself reflecting his ongoing thought process. Is that accurate?

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. Did discussions about the draft statement generally take place in email, in person, or both?

Mr. Rybicki. I would say a combination. Both.

Ms. Sachsman Grooms. And what was the purpose in reviewing the draft a number of times?

Mr. Rybicki. I don't know that I follow the question.

Ms. Sachsman Grooms. It went through lots and lots of edits. Is that accurate?

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. Why do you think it went through so many edits?

Mr. Rybicki. I think it's a combination, again, because it was -- when it was generated and the case was still moving forward, it was not meant to be a -- so it was not meant to be the final draft that he would deliver, by any stretch, but merely a starting point. I also think, you know, this was the Director's first attempt, based on the information that the team had been discussing, but because of

that, right, there might have been iterations to make sure it was all accurate, basically. To ensure -- and so bottom line, to ensure accuracy of it.

Ms. Sachsman Grooms. And we've seen some copies of the document in track changes and some copies that were not in track changes. Can you explain how that particular process worked? Was there one person in charge of inputting track changes to the document?

Mr. Rybicki. I don't think there was one person, so I ended up being sort of the pivot point for a lot of them. Again, Director Comey sent this on May 2nd. I believe the Deputy Director forwarded it to a couple of folks, but not the whole team, for comment. And then the Director had asked me to send it to the entire, what I'll call, the executive team, for comments. I think that was mid-May.

Ms. Sachsman Grooms. Sure.

Mr. Rybicki. And then from there, you know, parts of the team would send back joint comments. It would be discussed in the briefing updates. Right? And so edits would be coming in from a number of different places.

[Rybicki Exhibit No. 2

Was marked for identification.]

Ms. Sachsman Grooms. So I'm going to mark as exhibit 2 a May 16th, 2016, email, from James Rybicki -- May 16, 2016, 3:07 p.m. It's FBI -- it's Bates stamped FBI 23 through 27. And it is to Peter Strzok -- am I saying that right?

Mr. Rybicki. Strzok.

Ms. Sachsman Grooms. Strzok. -- [REDACTED] James Baker, redacted individual from the OGC, Trisha Anderson, another redacted individual from the OGC, Mr. Priestap, and cc's Andrew McCabe and David Bowdich. Is that the email that you were referencing?

Mr. Rybicki. Yes. And this email you said to this group: Please send me any comments on the statements that we may roll into a master doc for discussion with the Director at a future date?

Mr. Rybicki. Yes. And if I may.

Ms. Sachsman Grooms. Yes.

Mr. Rybicki. Now that I'm looking at this, I realized in response to the previous round of questions I left off a couple individuals as part of that team. I can supplement that now or --

Ms. Sachsman Grooms. Sure. That would be great.

Mr. Rybicki. Just forgot on the operational side you had your -- so under the Deputy Director side, you had your EAD, executive assistant director, for national security as part of the group, who was Mike Steinbach. I think he was for the entirety. But if I remember differently, I'll let you know. And then the assistant director for counterintelligence, that did span two people, so it was Randy Coleman initially, and then Bill Priestap.

Ms. Sachsman Grooms. And these two redacted OGC counsel, can you tell me who they are? So there's a lot of emails with redacted OGC counsel.

Ms. [REDACTED] Let me just --

[Discussion off the record.]

Mr. Rybicki. Thank you.

Ms. Sachsman Grooms. Can you tell me who the redacted OGC counsel are?

Mr. Rybicki. Sure. So to the best of my recollection, it would have been Lisa Page and [REDACTED] in the Office of General Counsel.

[Rybicki Exhibit No. 3

Was marked for identification.]

Ms. Sachsman Grooms. I want to move to a new exhibit in this sequence. We're marking it exhibit 3. It is an email from Peter Strzok on May 17th, 2016, at 4:35 p.m. It's to you. It cc's Andrew McCabe, Priestap, [REDACTED] and a redacted OGC counsel. It's Bates stamped FBI 49 through 50. Do you recall this email?

Mr. Rybicki. I can't -- I don't recall specifically, but I don't dispute that it came to me.

Ms. Sachsman Grooms. Uh-huh. So the email starts: Jim, blank, John, and I thought about and then spent a few hours talking about the Director's request. Some of our overarching observations follow as he narrows down what he wants to say. We'll provide comments about specific numbers, fact checking.

Do you know who the redacted person is at the beginning?

Mr. Rybicki. I think I could, given the context. I think I could say, but I'm not certain for sure.

Ms. Sachsman Grooms. Uh-huh. Who do you think it is?

Mr. Rybicki. Lisa Page.

Ms. Sachsman Grooms. When you read through these comments and

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this email, did you consider them to be Mr. Strzok's comments alone or was he consolidating the comments of the group?

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[12:25 p.m.]

Mr. Rybicki. I would have said, because this happened frequently, the consolidating the group.

Ms. Sachsman Grooms. And who would have been in that group?

Mr. Rybicki. So I guess I would call it a subset of the executive briefing group, so Mr. Strzok, Mr. [REDACTED] Lisa Page, [REDACTED] So sort of the investigative team plus some of their counsels.

Ms. Sachsman Grooms. So he separated these comments into three parts. Under thematic considerations he said, and I'll quote: "[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

When you got these comments from Mr. Strzok on behalf of this group, did you consider -- did you feel that they showed that he and the team wanted to aggressively rebut statements that had been made by Secretary Clinton and her campaign, that they had evidence that they felt that they could rebut?

Mr. Rybicki. I don't remember feeling that reaction, no.

Ms. Sachsman Grooms. Do you recall any reaction to this?

Mr. Rybicki. No. You know, again, typically, as just sort of the pivot point for these, it would have been sort of consolidating them and then either servicing them in the briefings or inputting them in sort of a track change document, something like that. I think something like this would probably be raised, you know, either

forwarded -- either I would have forwarded it to the Director or then raised it, you know, for discussion at the briefing.

Ms. Sachsman Grooms. Do you recall further discussions with the Director at the briefing about this subject?

Mr. Rybicki. In response to the first line?

Ms. Sachsman Grooms. Uh-huh.

Mr. Rybicki. I don't recall specific discussions. I recall a lot of discussion about the sort of so-called up classified, I think that's what they call it at the State Department. I recall a lot of discussion about that, whether, you know, is something unclassified, you know, at the time you send it, but then later it can be up classified, you know, raised a classification level. So I know there was a lot of discussion on that, which could be part of this.

Ms. Sachsman Grooms. He also, in the second part, discusses the question about whether there would be a perception that Secretary Clinton was receiving special treatment. It says, and I quote: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Did you think that the FBI was treating Secretary Clinton differently than it would anyone else?

Mr. Rybicki. No. I think she was being treated as what a person in her position would have been treated.

Ms. Sachsman Grooms. And did anyone in the team actually express that they wanted to give Secretary Clinton special treatment?

Mr. Rybicki. No.

Ms. Sachsman Grooms. Was there a concern within the team that there would be a perception that Secretary Clinton was being treated differently than others?

Mr. Rybicki. Can you repeat that one more time?

Ms. Sachsman Grooms. Yes. Was there a concern within the executive team that there would be a perception that Secretary Clinton was being treated differently than others?

Mr. Rybicki. I think that's fair to say. I think, you know, when you're looking at a case, you want to look at the totality of it, right, and again, going to this point of, you know, were others, you know -- you know, were they treated differently because of the person they were rather than the facts of the case, if that makes sense.

Ms. Sachsman Grooms. And did the team have discussions about that?

Mr. Rybicki. I think that's fair to say.

Ms. Sachsman Grooms. And what did the team decide to do about the concern about the perception that she would be treated differently?

Mr. Rybicki. I don't know -- well, so I don't know, to go into that concern, that she would be treated differently, but that this case, right, the decision to charge or not charge, might be differentiated from other cases that were charged or not charged.

Ms. Sachsman Grooms. And how did the team decide to deal with

that issue?

Mr. Rybicki. I think that was dealt with in the statement and by looking at the -- again, looking at the statutes, looking at the case law, and then, you know, just making sure that it fit into that -- into that structure.

Ms. Sachsman Grooms. So by taking the facts of the specific case and trying to describe how it fit or did not fit the previous cases that have been prosecuted?

Mr. Rybicki. Sure. Yes.

Ms. Sachsman Grooms. At the end of the email, on the second page, under section called "topic for further discussion," there's a point 6, quote, "whether her conduct rises to the legal definition of gross negligence."

Do you recall whether the senior leadership team discussed whether Secretary Clinton's conduct rose to the legal definition of gross negligence?

Mr. Rybicki. I remember a lot of discussion surrounding the statute specifically and what would have been required for it, and applying the facts and the evidence of this case to that, as well as, again, the cases that have been brought. But I don't -- and so there was -- yes, there was a lot of discussion around that.

Ms. Sachsman Grooms. And did the team consult with the Office of General Counsel on that question?

Mr. Rybicki. The Office of General Counsel was a participant in those meetings, yes.

Ms. Sachsman Grooms. And who from the Office of General Counsel would have weighed in on those issues?

Mr. Rybicki. Again, I can't -- so the general counsel was a participant in most briefings, as well as Trisha Anderson and [REDACTED] from the Office of General Counsel. Whether they weighed in specifically as to that point, that's --

Ms. Sachsman Grooms. You don't recall?

Mr. Rybicki. I don't recall. They were certainly present and had the opportunity to weigh in.

Ms. Sachsman Grooms. And in those discussions, did the Office of General Counsel consult or the people outside of the Office of General Counsel consult case law and precedent?

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. And what was the result? Did you or did they find a robust body of law for charging nonmilitary government personnel under the gross negligence standard?

Mr. Rybicki. Can you unpack that just a little bit for me?

Ms. Sachsman Grooms. Sure. What was the result in terms of the conversations around the gross negligence standard?

Mr. Rybicki. So I don't recall specifically to the gross negligence standard. Again, I recall a lot of discussion surrounding the statutes, right, and how they would fit. As to that one in particular, though, I just don't know the specifics on that.

Ms. Sachsman Grooms. And what do you recall about the discussion surrounding the statutes and how they would fit?

Mr. Rybicki. Sure. Just, again, how, you know, the case law in particular and how the criteria that would be needed in order for someone to bring -- for the government to bring charges against someone and how the evidence that was gathered in this case would fit into that.

Ms. Sachsman Grooms. And what was the conclusion about the evidence that was gathered in this case and how it fit into that?

Mr. Rybicki. So I think --

Mr. Schools. Can I ask you to clarify that question as to whether that's a conclusion of the team or a conclusion of the general counsel's office?

Ms. Sachsman Grooms. Sure.

Mr. Schools. I would like to sort of go to the core attorney-client privilege conclusion.

Ms. Sachsman Grooms. Sure, the conclusion of the team is fine.

Mr. Schools. Thank you.

Mr. Rybicki. Yes. So I guess I would go with Director Comey's characterization of that, which would be that no reasonable prosecutor would have brought the case.

Ms. Sachsman Grooms. And was that the consensus of the team?

Mr. Rybicki. I think that's accurate.

Ms. Sachsman Grooms. In the initial draft that Mr. Comey sent around on May 2nd, there was a sentence that included the term "gross negligence," and then that was later removed. Do you recall who removed it or why that decision was made?

Mr. Rybicki. Sure. Number one, consistent with what the

chairman outlined, you know, so I've heard media reports, right, that it was Mr. Strzok that changed it, so I just want to make sure that that's, you know, according to media reports that's in my head. I would -- I don't recall on my own, you know, because of the iterative nature of the document and how they were coming in in groups and batches like this as well as discussion, so I can't sort of pinpoint one person independently.

Ms. Sachsman Grooms. And do you recall the discussion about why that change was being made?

Mr. Rybicki. I don't. I think it's consistent with what we just talked about of, you know, the -- so the May 2nd email, exhibit 1, being the Director's first attempt at sort of bringing this all together in a way that he would say it, and then the team talking about, you know, again, wanting to ensure complete accuracy on it.

Ms. Sachsman Grooms. So is it fair to say that the edit of removing "gross negligence" reflected the team's general opinion after discussion and research?

Mr. Rybicki. I think that's right. I wouldn't ascribe it to one person that I can recall.

Ms. Sachsman Grooms. Do you recall anyone disagreeing with that decision?

Mr. Rybicki. I don't. Again, there was robust discussion about the statutes and the standards. You know, again, given my role as the chief of staff and how I was involved in these discussions, it's not something that I sort of clued in on. And so I can't say for sure,

but I just know that there was a lot of discussion.

Mr. Hiller. I think that's about an hour, so we'll take a break.

Mr. Rybicki. Could I have just 1 second with my attorney, and then I want to say one more thing?

Mr. Hiller. We'll wait right here. Sure.

[Discussion off the record.]

Ms. Sachsman Grooms. Did you have anything you wanted to add?

Mr. Rybicki. Thank you. If I may, just reflecting on one answer I gave before, I just want to make sure because I don't think I artfully said it. You had asked about whether -- something to the effect of whether Secretary Clinton was treated differently, and I think I said something to the effect of we treated her, you know, the same as anybody in her position. I didn't mean to convey that the position was Secretary of State or anything like that. What I meant to convey was sort of the totality of the circumstances for any individual. I just want to make sure that was clarified.

Mr. Hiller. Clarified. Thank you.

Ms. Sachsman Grooms. Thank you.

Mr. Hiller. We'll take a break now. We'll go off.

[Recess.]

Chairman Gowdy. Back on the record.

I think I addressed you incorrectly as Special Agent Rybicki. What is it, Mr. Rybicki? Is that --

Mr. Rybicki. That's fine, Mr. Chairman. I appreciate the accolade of special agent, but --

Chairman Gowdy. Well, if you went to law school, you earned something other than Mr.

I want to address something up front before I start asking you questions, and it's important to me. I don't really feel like I need to clarify it, I just want to.

I do think 2016 was a difficult year for the Bureau. It was also difficult for some of us that were defending Director Comey when there weren't very many people doing it in the fall of 2016 and even into 2017, even continuing to this day in some instances.

So when I say it was a difficult year for the Bureau, I really don't think there can be any cross-examination of that. There was a Presidential candidate under investigation. There was a campaign official, either officially or unofficially connected to the Trump campaign, people can quibble about that, also under investigation. One was made public, one was not made public, but the Nation's premier law enforcement agency was involved in both of them.

The July 5th press conference, where many Republicans have defended Director Comey's decision to have that press conference, nonetheless, was a difficult decision to be made. That is not usually a decision that a law enforcement official makes. That is a charging decision that is left to the prosecutor.

What went into his decision to have the July 5th press conference, and there's some of those matters we can't discuss in this setting and some of them we can, but those are difficult things to weigh and balance. And the decision to write two letters in the throes of a major political

race was a difficult decision to make.

So I think you may have actually said it best: Reasonable minds can differ about whether or not that decision should have been made or not. I think the Bureau and Main Justice are big enough to explain the analysis that they used to reach the decisions that they reached, and people are welcome to agree or disagree. They can say that they would have reached different conclusions. I just think the Bureau and Main Justice are big enough and strong enough and competent enough to explain whatever those decisions were.

I also would hasten to add this: It was not any member of this committee and it wasn't any member on my side of the aisle who accused Director Comey of a double standard that intentionally politicized a Presidential race. And it wasn't anyone on my side of the aisle who referred him for criminal prosecution under the Hatch Act. Those would have been Democrats that did that.

So I do appreciate the fact that they want now want to canonize some of the people that they once wanted to indict. I give them a lot of credit for being able to pivot in a relatively short period of time. But just understand, at this time last year, all of the praise being lavished today on the Bureau wasn't being lavished on the Bureau. There were calls for the Director of the FBI to be prosecuted for a crime.

So against that backdrop, I'm going to ask you a couple of questions that I have going through my head, and then turn it over to Johnny and anyone else that has questions.

Mr. Rybicki. Thanks, Mr. Chairman.

Chairman Gowdy. The decision to confirm or deny the existence of an investigation; policy is traditionally to neither confirm nor deny. Is that a Bureau policy, a Main Justice policy or both?

Mr. Rybicki. I think it derives from the U.S. Attorney manual. I don't know whether there's a specific FBI policy on point to that, but I certainly think the common practice is exactly as you articulated for both the Bureau and the Department.

Chairman Gowdy. And is that the reason that the Director of the FBI had a conversation with then Attorney General Lynch on whether or not to make it public and what to call it if it were made public?

Mr. Rybicki. Mr. Chairman, the conversation, the meeting at DOJ that I mentioned and described was, again, in -- both the Attorney General and the Director were going to be making public appearances, and again, I believe they were both congressional testimony. And in the context of the time period which it happened, there was -- it was the assessment of at least on the Bureau's side that it would undermine the credibility of the Bureau to not say anything to try to hold that line, meaning it would be nonsensical to try to no comment, even in the context of the traditional practice.

Chairman Gowdy. Did the attorneys at Main Justice agree with the Bureau's assessment that it would undermine the credibility of the Bureau to act as if an investigation were not ongoing?

Mr. Rybicki. I don't know the answer to that, Mr. Chairman.

Chairman Gowdy. So it is your belief -- well, maybe not your

belief, but the Bureau's position that the Bureau could make that decision independently whether or not Main Justice agreed?

Mr. Rybicki. I think one of the purposes of the meeting was to try to -- to try to coordinate with the Department of Justice on that.

Chairman Gowdy. And was there consensus between the Bureau and Main Justice that it should be made public?

Mr. Rybicki. No, I think -- I'm sorry, the decision whether to make it -- I was not thinking correctly. So I was parsing the investigation versus the matter, but you're saying at all.

Chairman Gowdy. At all.

Mr. Rybicki. I don't remember that level, Mr. Chairman. I think -- I want to say there was agreement that it should be acknowledged, but how to describe it was the question. That's my general recollection.

Chairman Gowdy. All right. And I think you walked through a previous line of questions the various factors that the Bureau would consider on whether or not to break from normal protocol and make a mistake. It's not a statute or a law, it's a policy decision. You walked us through the factors that inform and instruct the decision to depart from normal practice. And what were those factors?

Mr. Rybicki. I think there's -- I believe there's more than two in the U.S. Attorney manual. The ones I recall, though, are sort of extreme, you know, public danger if there's a -- you know, if the public's in immediate danger and the government needs to confirm that they're doing something about it or -- and again, I don't know if this

is the exact wording, you know, this sort of extreme public interest or great public interest -- if it is in the public's interest. So not so much that the public might be interested in it, but if it's in the public's interest.

Chairman Gowdy. Is it fair to say that the grave danger to the public factor would not have been the decision maker in this fact pattern?

Mr. Rybicki. I think that's fair.

Chairman Gowdy. All right. At some point, the Bureau also had to decide whether or not to make the investigation into a Trump campaign official public or not public. How would the analysis be different? Because in one instance you decided to make it public, and in one instance it was not made public until after the election. Walk us through how you reached different conclusions.

Mr. Rybicki. Sure. I think to start, Mr. Chairman, is just to -- and this is -- this is definitely my view. Every case stands on its own, right. So what you do in case A should have no bearing on what you have in case B. To try to balance them in some way, whether you're talking about this particular example or any other, you know, I think it would be totally inappropriate to try to balance them. So just because you did in A, right, you should try to balance that with B. So that's just -- that's where I start from on it.

I think the -- I think how you differentiate the two here would be all the factors that led in to -- so that proposition aside -- the factors of the time period that you were in and all the factors.

So the Clinton email investigation had been going on for some time, and again, there were factors that went into wanting the department of the FBI to confirm it publicly, right, which we talked about in that meeting or was the subject of that meeting.

For the other investigation that you referenced, my recollection is it was relatively early in the case, and there was nothing to announce at that point. And so I would say the assessment at that time, and again, I don't know whether this was enumerated in this way but, you know, it would not be in the public's interest to disclose it.

Chairman Gowdy. But it would have been true, at some point in the summer of 2016, that an official of the Trump campaign was under investigation either from a criminal or counterintelligence standpoint?

Mr. Rybicki. Mr. Chairman, I don't remember the exact time period. My recollection was that it was late summer, like late July and August.

Chairman Gowdy. It was late July.

Mr. Rybicki. Yeah. So I just -- I want to be careful with that. But I'm sorry, your point there? I lost my train of thought.

Chairman Gowdy. Well, you know, one of the criticisms from our friends on the other side of the aisle is that the public was made aware of one investigation, but they were not made aware of the other. And I appreciate the fact that you don't treat everything exactly the same, because even the smallest fact can influence it.

But you had a Presidential candidate and a Presidential campaign.

You had one under investigation for a potential mishandling of classified information and another under investigation for something else that's also serious. And the Bureau made the decision to make one public and one not public before the election.

Now, ultimately, Director Comey did make it public. And if memory serves me correctly, he made it public in January or February of 2017.

Mr. Rybicki. My recollection is March, Mr. Chairman, but if we're thinking about the same hearing, I believe it was --

Chairman Gowdy. You may be right.

Mr. Rybicki. -- House Intelligence.

Chairman Gowdy. Maybe in early March in a public hearing in the Ways and Means Committee room.

Mr. Rybicki. Yes, Mr. Chairman, that's the one I'm thinking of.

Chairman Gowdy. All right. And what factor existed in March of 2017 that did not exist in October of 2016 that would have led you to make it public at one point but not the earlier point?

Mr. Rybicki. Mr. Chairman, I don't know if I can speak to the exact thinking at that time. I would think that a factor would be the how far the investigation had come to that point, but I don't remember all the factors. There was definitely discussion and coordination with the Department of Justice at that time as well as to whether to make that announcement.

Chairman Gowdy. Do you recall when Senator Reid sent the letter suggesting that Director Comey had violated the Hatch Act?

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Mr. Rybicki. I don't recall who actually suggested it. I know that it was, in fact, done. I don't recall who sent the letter.

Chairman Gowdy. It was Senator Reid, who was the majority leader in the Senate at the time -- or may have been the minority leader at the time.

The decision to send the first letter to Congress, were you part of that decision?

Mr. Rybicki. Yes.

Chairman Gowdy. And walk me through the various factors that informed and instructed the decision to, number one, send the letter, number two, to make it public.

Mr. Rybicki. Certainly. You're talking about the October 28th, for clarity?

Chairman Gowdy. Yes. The first of the two, yes.

Mr. Rybicki. Thank you, Mr. Chairman. So I think once the Director -- so when the Director was notified about the possibility of additional emails being found, there were two decisions that he was -- well, two decisions that he made. It was teed up for him whether to seek legal process to be able to let the agents look at those emails, so that was decision one. The second decision was, and I believe Director Comey raised it, was having spoken, testified, that the Bureau had completed its investigation or concluded all investigative action, taking a step like getting legal process for to view them would require some notification that -- and he felt that it was his obligation, is the bottom line, as the person who, in fact, testified to it.

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The form then was subject to discussion amongst the group, and one member of the group, an attorney, made the suggestion to send it in a letter to the chairman and ranking of select committees. "Select" meaning a couple committees.

And so we talked a lot about whether that letter could be -- well, stepping back a moment, whether any communication could be classified, and, in fact, we decided this couldn't properly be classified under the criteria for classification of national security documents. And then it was this attorney's suggestion to send it to the committees as a way of alerting that we needed -- the Director needed to supplement his testimony, and we took steps. So when the Director gave his July 5th announcement, he sent an email to the workforce. Obviously, he was going to give a public statement, and then he wanted his -- as is typical when he made big decisions, he sends an email to the workforce.

When he sent the letters to the chairman and ranking, he sent it up to the Hill, and then we purposefully -- we had a draft email ready to go. We purposely did not send it under the theory that it may not get out. It was likely that it would get out or be released publicly, but that it may not. And if we -- if it didn't otherwise get out, the Bureau was not going to say anything about it.

Chairman Gowdy. If I understand your testimony correctly, there were two factors, and I may be overly simplistic, and if it is, you correct me. Number one, there was a prospect that you may have to use legal process, and it would get out that way. Number two, the Director

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had testified before a committee of Congress that the investigation had concluded, and he felt the need to supplement the record and make it accurate if, in fact, the investigation were reinitiated.

Mr. Rybicki. I think that's fair, Mr. Chairman. And I would only add to the second point, which is, you know, it was the Director's view that to take no action would, in fact, be concealing the fact of.

Chairman Gowdy. Let's assume for the sake of argument that the Director's correct. Are you familiar -- if I use the phrase "Gang of Eight," are you familiar with what I mean when I say that?

Mr. Rybicki. Yes, Mr. Chairman.

Chairman Gowdy. Was there any discussion of notifying Congress at the Gang of Eight level?

Mr. Rybicki. I can't -- I can't recall, Mr. Chairman, when the suggestion was made to notify Congress, and I think it was -- to the best of my recollection, it was made to those specific committees, because that's to whom he had testified. I don't recall if there was discussion at the Gang of Eight level, but I'm familiar with the term.

Chairman Gowdy. In one of the questions raised by my colleagues on the other side of the aisle, but it's a reasonable question, is whether or not you had any other alternative accepting that the Director believed he needed to supplement the record, accepting that belief that he thought to do otherwise would be to leave a misapprehension in Congress' mind, just give him that. It didn't have to be public. There are lots of ways of notifying Congress that you would like to supplement the record. You can go in a SCIF. You can do it at the

Speaker and minority leader level. It doesn't have to be in a letter.

So what other alternatives did you consider other than what you opted for?

Mr. Rybicki. I don't remember the specifics, Mr. Chairman. You know, we talked about, you know, in fact, giving a public statement, updating it that way, because the testimony had been public. So I don't remember the universe of options, but I believe you are correct. I think there, you know -- I think we saw it as the best option at the time, but fully stipulate that there probably were other options.

Chairman Gowdy. Who at the Bureau was authorized to talk to the media on the record?

Mr. Rybicki. Sure. It's enumerated in the media policy, which has just been updated. They include the Director, the Deputy Director, the associate Deputy Director, the assistant director for Public Affairs, special agents in charge, and ADICs as they relate to their areas of responsibility, various public affairs specialists that are authorized, and then anyone else with approval of that group basically.

Chairman Gowdy. Who at the Bureau would need to authorize off-the-record conversations with the media?

Mr. Rybicki. I believe that same -- I treat on the record or off the record -- I would consider them to be the same.

Chairman Gowdy. So everyone at the Bureau does not have license to talk to anyone in the media that they want to talk to?

Mr. Rybicki. Correct.

Chairman Gowdy. And if you're not in that designated group, is

it clear within DOJ policy that you are not authorized to talk to the media?

Mr. Rybicki. I think it was, what I would say, ambiguous before, even though there was a policy. It has now been clarified with the new FBI policy, and I believe DOJ has a new policy as well.

Chairman Gowdy. I'm going to let Johnny jump in here for a second.

Mr. Ratcliffe. Mr. Rybicki, I want to follow up on some of the questions that the minority just asked you relating to what's been marked as exhibit 1. So I want to give you a chance to pull it out. I know you said you reviewed that document before your testimony today.

Mr. Rybicki. Yes, Mr. Chairman.

Mr. Ratcliffe. I want to make some specific references to you, and I want to make sure that you have every opportunity to look at it so we can kind of go through this together. But I want to go through it because it's important to try and understand the decision-making process that went on here with respect to that.

So my first question is, was exhibit 1, this May 2nd email, was it Jim Comey's idea?

Mr. Rybicki. Mr. Congressman, I don't recall discussing it prior to this. It's possible. I'm not recalling it. He is the one that initiated the draft, though.

Mr. Ratcliffe. Okay. And so did he actually draft it?

Mr. Rybicki. I believe that's the case.

Mr. Ratcliffe. Okay. So to the best of your knowledge, these

are his words?

Mr. Rybicki. Correct.

Mr. Ratcliffe. Okay. And it would have been based on the multiple briefings that he would have had from the midyear team up to that point?

Mr. Rybicki. Yes.

Mr. Ratcliffe. Okay. You know, as I read this, we can refer to it as an email. It reads to me -- we talked a little bit before about our backgrounds. It reads to me a little bit more like a nonprosecution memo in the sense that it talks about the FBI's investigation, and then it runs through the specific elements of the statutes at hand, and then concludes with the Director's opinions about prosecutorial discretion.

Do you think that's a fair characterization of this -- call this essentially a draft, you've called it a draft, but essentially a draft nonprosecution memo?

Mr. Rybicki. I wouldn't call it that. I considered it for what it is, a recommendation to the Department of Justice and public statement. So I wouldn't go as far as calling it a nonprosecution memo or --

Mr. Ratcliffe. Okay. Well, you've seen nonprosecution memos?

Mr. Rybicki. I have.

Mr. Ratcliffe. Okay. You ever seen the FBI Director draft one?

Mr. Rybicki. No.

Mr. Ratcliffe. But they -- essentially, a nonprosecution memo would go through some of the things that the FBI Director did in this

case. Would you agree with that?

Mr. Rybicki. I think that's accurate.

Mr. Ratcliffe. Okay. So to your knowledge, did Director Comey at any point in time do whatever we're going to call this, a draft email, with respect to potential prosecution of Secretary Clinton?

Mr. Rybicki. No, Mr. Congressman, for -- I think for the same reason I would have just said, right, because this was the recommendation of the -- or based on what the team was telling him up to this point that this is where it stood, and was not meant to be final, I guess, so I would add to that.

Mr. Ratcliffe. So specifically, again, the Director goes through in his own words and talks about a specific statute, 18 U.S.C. 793(f), and regarding the handling of classified information and the elements of that. And he sort of summarizes, under the first part, what the investigation was towards the bottom of the first page where he says: "Our investigation focused on whether there is evidence that classified information was improperly stored or transmitted on that private system in violation of a Federal statute that makes it a felony to mishandle classified information either intentionally or in a grossly negligent way."

Did I read that accurately?

Mr. Rybicki. Yes, sir.

Mr. Ratcliffe. Okay. So he then goes on to talk about that in greater detail over the next two pages, but on two separate occasions, Director Comey in this first draft apparently expresses his opinion,

not once but twice, that he believes that Secretary Clinton and others were grossly negligent in the handling of classified information. Is that accurate?

Mr. Rybicki. That's accurate.

Mr. Ratcliffe. Okay. Was there any discussion at that point in time that, given the fact that the role of the FBI is to investigate whether or not a subject or a target has committed the elements of an offense, that at that point the FBI opinion of this executive team was that Secretary Clinton had committed the elements of an offense, to then hand this matter off to the Department of Justice to exercise their prosecutorial discretion?

Mr. Rybicki. I think I lost a little bit of that, Congressman, so --

Mr. Ratcliffe. In other words, as we've talked about before, much has been made about it's not the Federal Bureau of matters, it's the Federal Bureau of Investigation. It's likewise not the Federal Bureau of prosecution, correct? So the role of the FBI is to investigate and determine whether or not a subject or target has committed the elements of an offense, and then to refer the matter to the Department of Justice to exercise prosecutorial discretion.

Mr. Rybicki. Yes, sir.

Mr. Ratcliffe. So my question is, since the FBI Director, who was a former United States Attorney, former Deputy Attorney General, was of the opinion on May the 2nd that Hillary Clinton had committed the elements of the statute that we have just referenced, to at that

point hand it off to the Department of Justice to play their role.

Mr. Rybicki. So I don't know -- you know, the investigative team certainly would have been working with prosecutors, iterative, right, as any case, right, so meaning what I'm calling the investigative team on the FBI side would have been working with prosecutors at the Department of Justice. And I would think as the team is surfacing sort of their opinions and the evidence found, that it would be included in that, if that makes sense.

So, in other words, when -- I don't think the prosecutors would have been surprised to have seen this. I know it's not directly on point to your question. I'm trying to think it through with you.

Mr. Ratcliffe. We're trying to understand this as former prosecutors about the role of the FBI. And, again, not to reiterate, the conclusion here in the words of the FBI Director, based on multiple meetings and discussions with the entire investigative team, was that Hillary Clinton and others, apparently, had committed the elements of a criminal offense, and why there was need at that point to then go on and exercise prosecutorial discretion with respect to whether or not charges should be actually levied.

Mr. Rybicki. Sure. I see the point. I don't know that I can speak for the Director, you know, except to say, again, this was the first draft of a statement, right, and not meant to be final. And so I just want to be careful, I don't want to speak for him as to what he, you know -- what he actually -- if he felt that he had met this or if that's what he thought the team was thinking, and then so --

Mr. Ratcliffe. I understand that, but I guess what -- to the point, the Director makes these -- expresses these opinions that were apparently shared by the team, not once but twice, but then goes on -- the reason I refer to it as nonprosecution memo -- goes into exercising prosecutorial discretion and the reasons why he would not recommend it or this team would not recommend to the Department that charges be actually brought against Hillary Clinton, despite the commission of the elements of the offense. Is that fair?

Mr. Rybicki. I think it's fair, except that just, you know, I go back to why I'm not calling this a prosecution memo, you know, because it's meant to be, you know, as he says in there, that this is the FBI's recommendation to, you know, the Attorney General.

Mr. Ratcliffe. Okay. Right. So but then the FBI -- so the FBI Director goes on to talk about why prosecutorial discretion and no reasonable prosecutor would bring that case was because, notwithstanding his opinion and the team's opinion that the former Secretary had been grossly negligent, that it was going to require something more, that it was going to require intent, correct?

Mr. Rybicki. I think that's accurate.

Mr. Ratcliffe. Okay. So was that a decision that the FBI Director had made or the team had made?

Mr. Rybicki. I don't know the answer to that, Congressman. I would suspect it was a combination, but I don't know the answer to that.

Mr. Ratcliffe. Okay. Do you know whether or not that was a decision that was made in part by the Department of Justice?

Mr. Rybicki. Ultimately or --

Mr. Ratcliffe. At that point.

Mr. Rybicki. At that point, I don't know.

Mr. Ratcliffe. Because at some point, the Department of Justice advised the investigative team, apparently, that gross negligence would not be charged and that it would require something more than that, correct?

Mr. Rybicki. I think -- I just want to make sure I got the sequence right. So after this press conference, then the Attorney General convened a meeting, I believe it was the next day, where she was briefed by the Department of Justice on the statutes, and then they agreed that no charges should be sought.

[Rybicki Exhibit No. 4

Was marked for identification.]

Mr. Ratcliffe. Let me hand you what I marked as deposition exhibit 4. Is that the right number? Are we up to 4? -- so you can refer to that. And if you go to the second page of that exhibit, there's a chart. And this was a document, for the record, that was produced a couple of days ago to the House Judiciary Committee in response to a request. But you see under that middle block in talking about Espionage Act charges under the statute that I've just referenced, 18 U.S.C. 793(f) gross negligence, there's a note there that says specifically, "DOJ not willing to charge this."

So my question, what I'm really trying to find out, is at what point did the DOJ advise the investigative team that gross negligence

is off the table, it's going to require something more than that? Was it on May 2nd, and was that factored into this draft memo that the Director had prepared, or did it come at some point in between?

Mr. Rybicki. Sure. Sorry, Mr. Chairman, if I misunderstood that. I don't know the answer to that. Again, robust discussion about the statutes and the case law, absolutely. I want to reiterate sort of my role in all this. And I don't want to minimize it, but, you know, this is all happening in a, you know, whether this was discussed, it may have been, but I'm just not recalling it.

Mr. Ratcliffe. Okay. But it is fair, again, to say that essentially at this point in time, as expressed by Director Comey, that it was apparently the consensus opinion of the team that evidence of gross negligence was not going to be enough, it would require some criminal intent above that. I think you just said that that was accurate.

Mr. Rybicki. I believe that's accurate. Yeah. I was just trying to --

Mr. Ratcliffe. So in September of 2016, Director Comey was asked in a congressional hearing whether or not any decisions had been made with respect to charging Hillary Clinton before her July 2nd interview, and he said that they had not, that the charging decisions had been made after that date. How do you reconcile that testimony with the fact that gross negligence more than 2 months before Secretary Clinton's testimony was not under consideration, that they had ruled that out in terms of making a charge against her based on grossly

negligent conduct?

Mr. Rybicki. Sir, I don't want to speak for Director Comey on this statement, but how I reconcile it is that the ultimate charging decision for Secretary Clinton in this case was made after her interview in that final conference call.

Mr. Ratcliffe. With respect to intent, but not with respect to gross negligence.

Mr. Rybicki. Again, I don't want to speak to what Director Comey was thinking when he answered -- or when he testified to that, but that's how I would -- that's how I've interpreted up until this point, which is for the whole case, right, rather than specific elements of it.

Mr. Ratcliffe. Okay. One of the questions that you got earlier from the minority staff was about the changes from the word "gross negligence" to "extremely careless." Again, so as of May 2nd, it was the expressed opinion of a career prosecutor who had been a United States Attorney and the Deputy Attorney General, that Hillary Clinton was grossly negligent, said it not once but said it twice. Ultimately, the final version changed the language to "extremely careless," correct?

Mr. Rybicki. Yes, sir.

Mr. Ratcliffe. Media reports are that that change came at the request of Peter Strzok, correct?

Mr. Rybicki. I'm aware of them, yes, sir.

Mr. Ratcliffe. Yeah. And you I think testified earlier that

you're not sure whether or not he did influence that aspect of the language change. Did I hear that right? Or do you know?

Mr. Rybicki. I do not know. I think, at least when we looked at one of these --

Mr. Ratcliffe. He said something in here with respect to, for instance --

Mr. Rybicki. In exhibit 3, yup.

Mr. Ratcliffe. -- exhibit 3 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Mr. Rybicki. So I wasn't -- I wasn't looking at that. I was thinking of the last bullet number 6 on exhibit 3 where he talks about topic for further discussion, going to this line of questioning, whether her conduct rises to the legal definition of gross negligence.

Mr. Ratcliffe. But so -- so I guess to answer, you're not sure whether or not he influenced the decision to change the language from "gross negligence" to "extremely careless"?

Mr. Rybicki. Right. I don't recall him specifically. I do know, again, the team discussed it.

Mr. Ratcliffe. So in the team discussion, can you tell me whether or not there was a discussion along the lines of, well, grossly negligent is the exact language in the statute, and if we use the exact language in the statute, people are going to say she committed the elements of the offense?

Mr. Rybicki. I don't remember, again, that level. Again, it was just the role I was playing.

Mr. Ratcliffe. Well, so can you shed any light on who persuaded the FBI Director that a change from gross negligence to extremely careless was appropriate or necessary? Do you remember any discussion about why that was? Was there documents that were produced or testimony that was elicited that would have changed his opinion expressed on multiple, multiple times in this May 2nd email?

Mr. Rybicki. I don't, so I don't know whether it first came in as a sort of comment like we saw on exhibit 3 or, you know, a change in a document or both, or whether it came up in the meeting. I guess I would say, you know, like all of these, you know, it continued to be iterative from the time the Director sent it up through when he delivered it as the evidence was evaluated as the case law and the statutes were looked at.

Mr. Ratcliffe. Okay. So going back to exhibit 3, this email from Peter Strzok to you where he talks about his suggested changes in this iterative process, as you've described it. Under number 4 bullet point he says the statement that, "we assess it reasonably likely that hostile actors gained access to Secretary Clinton's private email account is too strong."

And, ultimately, we know that the language in the final version on July 5th that was delivered to the public was changed consistent with this, correct?

Mr. Rybicki. I'll stipulate to that. I don't recall --

Mr. Ratcliffe. I'll represent to you that it was.

Mr. Rybicki. Yup.

Mr. Ratcliffe. My question is, in light of what has now become public about Agent Strzok, and we have all become aware of the intensity of his political opinions regarding both President Trump and Secretary Clinton, are you at all concerned now as you sit here that he played such a prominent role in this iterative process and influenced language changes in the final version of this?

Mr. Rybicki. I don't want to speculate as to his conduct. What I would offer, though, is my observations of the process, which was it was very much this group, you know, with all of those participants weighing in. And so I think it would be very difficult for one person to influence the whole, if that makes sense.

Mr. Ratcliffe. Okay. I'm going to turn it over for you. I may have some -- or the chairman. I'll turn it over to the chairman.

Mr. Rybicki. Thanks, Mr. Congressman.

Chairman Gowdy. A couple of quick follow-up questions. I'm still a little bit confused on whether or not in May of 2016, this draft that you and Mr. Ratcliffe had been discussing, was that the beginnings of a press statement or was that the beginnings of something that you intended to communicate to the Department of Justice?

Mr. Rybicki. A press statement.

Chairman Gowdy. So the decision to appropriate, and I don't mean that negatively, the decision to appropriate the charging decision away from the Department of Justice had already been made?

Mr. Rybicki. I don't think I would agree with that, Mr. Chairman. I would differentiate it in a couple ways. So the May email where he starts out by saying, "I'm trying to imagine what this looked like," right. And so when I say it's the beginnings of a press statement, yes, but not the ultimate decision to go ahead with a press statement, right.

Chairman Gowdy. When was the decision made -- I think you and I agree, I don't know whether it's unprecedented or not, but it's highly unusual for the head of the FBI to have a press conference, go into this level of detail about the decision not to charge.

Mr. Rybicki. Yes, Mr. Chairman.

Chairman Gowdy. Can you think of another case wherein this happened?

Mr. Rybicki. I cannot.

Chairman Gowdy. All right. So "unprecedented" may be the right word. What I'm trying to determine is whether or not in May you knew that the press conference was going to take place or you just view this as a possible contingency?

Mr. Rybicki. I don't know if I would use the word "contingency," Mr. Chairman. I would say it's an option for the end of this. We had, you know, talked about, you know, this in addition to many other options as to, you know, what this would look like at the end. I know at the working level, the team, you know, had been discussing with their counterparts as well, you know, what the conclusion would look like.

I would offer there were several factors that went into the

thinking behind the ultimate decision to go with a press conference. And then I would just again reiterate what is my view, that this again is making public a recommendation, which we would have done in private to the Department or in consultation with them. And then the Attorney General convened a meeting the next day where she accepted the recommendation, not only of the FBI, but of the career prosecutors.

Chairman Gowdy. How many trials did you have when you were an AUSA?

Mr. Rybicki. I was not an AUSA, sir.

Chairman Gowdy. You had a trial where you ever had to stand in front of the jury and convince them of something?

Mr. Rybicki. No, sir.

Chairman Gowdy. You can imagine how difficult it would be to do that from a prosecutor's standpoint if the Nation's premier law enforcement director had reached a contrary decision. So I appreciate the nuance that the Department of Justice still had the option of going forward. The reality is, when you instruct everyone in a press conference that no reasonable prosecutor would take this case, there's not going to be a prosecution. There is no -- speaking of reasonable prosecutors, there is no reasonable prosecutor that would then take that case to trial.

So this was more than just a recommendation to the Department of Justice. Will you concede that?

Mr. Rybicki. Mr. Chairman, it might be my simplistic view. I mean, I -- and, again, not having done trials, not -- you know, I take

it for what, you know, we, what the Director, you know, intended, again, to recommend to the Attorney General. Now, perhaps, again, the view might be that, you know, it would be hard or impossible, in your view, to take the case at that point, but I still --

Chairman Gowdy. Certainly be a challenge.

Mr. Rybicki. I would only offer, I think whether it was -- for instance, if it was not made public, it was just the FBI's private recommendation, I still think the recommendation would have been the same. I don't know if the result would be the same that you indicate.

Chairman Gowdy. But that is a big distinction, because it's usually done in private. This time it was not done in private.

Mr. Rybicki. Yes.

Chairman Gowdy. And I'm trying to determine whether or not whatever factors led the Director to take this unprecedented step, whether those factors existed in May of 2016. Whatever caused him to think we're going to do this differently, would you concede that the meeting on the tarmac -- well, actually, it couldn't have been a factor because it took place after May.

Mr. Rybicki. That's correct, sir.

Chairman Gowdy. So what factor existed prior to May that led the Director to take this unprecedented step?

Mr. Rybicki. So there's at least two that I'm aware of, but to elevate it just one step, I would say his overarching concern was the integrity -- so he's articulated three sort of spheres. One, the FBI's integrity, right, that people know that this investigation was done

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in a professional way with integrity. Number two, the Department of Justice's writ large, right, which the FBI is a part of, that people have confidence that the Department of Justice is operating in a professional, apolitical way. And then number three, the confidence in the criminal justice system, again writ large, that people have confidence that the system is operating the way it should be.

So that's -- that's what he's articulated before as his overall thinking. There are --

COMMITTEE SENSITIVE

[1:25 p.m.]

Chairman Gowdy. Let me stop you and let's sort of backtrack for a second.

Mr. Rybicki. Yes, Mr. Chairman.

Chairman Gowdy. Why would they not exist in every criminal prosecution? The need for the jury or the public to have confidence in the Bureau, the need for the jury and the public to have confidence in the prosecutors, and the need for the jury and the public to have confidence in both the result and the process, why is that not true in every criminal matter?

Mr. Rybicki. I think in fact they do, and they're critical in every single case, and I think because they could be called into question here was the --

Chairman Gowdy. And that's what I'm getting at. What could have called it into question?

Mr. Rybicki. The other factors that I mentioned. One we've discussed, which was the -- call it a matter instead of an investigation.

Chairman Gowdy. Let me stop you there. We're going to go through them one by one. How many people knew that that had happened?

Mr. Rybicki. The handful of folks in that room.

Chairman Gowdy. All right. So was it publicly known at the time?

Mr. Rybicki. No.

Chairman Gowdy. So to the extent that you were able to keep it

a secret from the fall of 2015 until May of 2016 is at least some evidence that you were going to be able to keep that conversation a secret thereafter?

Mr. Rybicki. It's possible, Mr. Chairman.

Chairman Gowdy. It's more than possible, because you managed to do it.

Mr. Rybicki. I think that's right, up until the outcome of the case becomes public, whether through congressional testimony, other oversight. I think that's where it could potentially have been elicited.

Chairman Gowdy. Is it your testimony that the Director decided, after having that conversation with then AG Lynch, that he was going to have this press conference and announce the decision himself?

Mr. Rybicki. I don't know the answer to that.

Chairman Gowdy. Because that was in the fall of 2015, right?

Mr. Rybicki. Yes, Mr. Chairman.

Chairman Gowdy. Well before the drafting of the memo and well before the press conference?

Mr. Rybicki. Correct.

Chairman Gowdy. Had the conversation -- all right. That was one of the factors. What was the other factor, or is it a matter that can't be discussed in this setting?

Mr. Rybicki. The other one is a classified matter.

Chairman Gowdy. When was that -- I'm aware of that matter, and I appreciate the sensitive way in which you're handling it. When was

the Director made aware of the other factor?

Mr. Rybicki. Mr. Chairman, I don't remember the exact timeline, but it was early 2016. I don't remember the first time he was made aware of it. I want to say early 2016, and continued on through that spring.

Chairman Gowdy. So we have a fall of 2015 request that it be referred to as a matter, not an investigation. We have another factor, perhaps in early 2016, that the Director was very concerned about, but has not to this day spoken publicly about and cannot speak publicly about. And both of those took place before May.

Mr. Rybicki. Yes, Mr. Chairman.

Chairman Gowdy. All right. And they both fall under the heading of the public could not -- could potentially not have confidence in the integrity of the Justice Department. Is that fair?

Mr. Rybicki. Yes.

Chairman Gowdy. All right.

Mr. Rybicki. At that time.

Chairman Gowdy. At that time. We're not going to go into this because it's outside the strictures of our agreement, other than I would just bring to your attention that there have been other instances when the Director believed it was in the public's interest to take certain steps to trigger the appointment of special counsel. Are you familiar with what I'm referring to?

Mr. Rybicki. I believe so, Mr. Chairman.

Chairman Gowdy. All right. Was there any conversation about

taking steps to trigger the appointment of special counsel, given the facts that existed in the fall of 2015 and early 2016?

Mr. Rybicki. Not to my recollection.

Chairman Gowdy. You never brought it up?

Mr. Rybicki. I did not.

Chairman Gowdy. He never brought it up?

Mr. Rybicki. I don't believe so.

Chairman Gowdy. If you are concerned about the way the Department's decision will be interpreted by the public, why not remove it from the Department?

Mr. Rybicki. It's certainly an option, Mr. Chairman.

Chairman Gowdy. Well, it's really one of only two options you have, you either do by Main Justice or you trigger a special counsel. Who gets to pick special counsel? Who decides whether or not special counsel is appropriate?

Mr. Rybicki. I don't know who. I believe the Department of Justice.

Chairman Gowdy. Are you familiar with the regulation?

Mr. Rybicki. Not intimately, sir. I'm generally aware of it.

Chairman Gowdy. So you don't recall any discussion of calling for, privately or publicly, the appointment of special counsel because of your concerns that the public may not have confidence in the decisionmaking of the Department of Justice?

Mr. Rybicki. I don't recall any.

Chairman Gowdy. All right. So those two factors existed prior

to the drafting of this memo.

I want to read something to you and make sure that it's accurate first, and then I'll ask you about it in a little more detail. You were interviewed by the Office of Special Counsel?

Mr. Rybicki. Yes, sir.

Chairman Gowdy. Do you recall stating that you recall conversations that indicated -- and this part's in quotes: We will do this press conference on July the 5th, unless Secretary Clinton -- and then the next word or phrase is redacted -- in the interview.

Mr. Rybicki. Yes.

Chairman Gowdy. What is redacted and why?

Mr. Rybicki. I don't know. I'm sorry. I know what's redacted. I don't know why it was redacted. May I consult with counsel?

Chairman Gowdy. Sure.

[Discussion off the record.]

Mr. Rybicki. Thanks, Mr. Chairman.

Chairman Gowdy. You want me to repeat the question or you remember?

Mr. Rybicki. If you wouldn't mind, sir.

Chairman Gowdy. All right. It's been represented to me that during an interview with the Office of Special Counsel, you stated that you recalled conversations indicating, and this part's in quotes: We will do this press conference on July the 5th, unless Secretary Clinton -- and then either a word or a phrase is redacted -- in the

interview, period, close quote.

Do you recall what word or phrase is redacted?

Mr. Rybicki. I do. I think as I was just trying to recall it here, it might have been a phrase, I just can't remember off the top of my head. I do remember at least one of the words in there for sure, which I think is the key.

Chairman Gowdy. Was the redaction due to classification purposes?

Mr. Rybicki. I don't know what the reason was for redaction.

Chairman Gowdy. Do you recall what the phrase was?

Mr. Rybicki. I do. I'm sorry, sir, I know at least one of the words, and there might have been another one, but I'm happy to -- I've been authorized to say the one.

Chairman Gowdy. What do you recall?

Mr. Rybicki. [REDACTED]

Chairman Gowdy. Okay. That -- [REDACTED]

[REDACTED] [REDACTED]
[REDACTED] --

Mr. Rybicki. I think that's fair, Mr. Chairman. I probably wasn't as articulate as I should have been there.

Chairman Gowdy. When this interview began, back to Mr. Ratcliffe's line of questions, what element do you believe was missing for there to be a plausible argument for prosecution?

Mr. Rybicki. I don't know if I can answer that, Mr. Chairman. It just wasn't my role in the case.

Chairman Gowdy. Well, issue's what the Director say, the issue of intent. And what I'm struggling a little bit with is the intent to do what? Did you have any discussions with Director Comey about what element he thought was missing before he would be able to recommend prosecution?

Mr. Rybicki. I don't recall specifically, Mr. Chairman. I do recall talking about other cases, which would differentiate it and potentially different factors that would go into that, but I don't recall specifically what element he thought was missing here.

Chairman Gowdy. All right. Well, I want to ask you if you agree with this. You can have every element of the offense, evidence exists for every element of the offense, but you exercise your prosecutorial discretion and still not go forward.

Mr. Rybicki. Yes, Mr. Chairman.

Chairman Gowdy. Or you can have some crucial piece of evidence that informs or instructs an element be missing. The result's the same. You've not gone forward with the prosecution. But the rationale is different.

Is it your belief that an element was missing or that the elements were met, but because there had not been another prosecution, you were exercising your prosecutorial discretion to not go forward?

Mr. Rybicki. May I consult one second, Mr. Chairman?

Chairman Gowdy. Sure.

[Discussion off the record.]

Mr. Rybicki. I'm sorry. Thanks, Mr. Chairman.

Chairman Gowdy. That's all right. Do you want me to repeat it?

Mr. Rybicki. I'm okay. Unless you need to.

Chairman Gowdy. Huh-uh.

Mr. Rybicki. I don't want to -- I want to be careful, because I don't know what I recalled from the time of those discussions and what might have been added later. And so it really was not in my role at the time, again, as I think about what role I played, vis-à-vis the attorneys and the investigative team and the other executives, you know. I think other sort of public information has, since that time, right, might have informed some of my thinking. And so I just want to be careful I'm not -- does that make sense, Mr. Chairman?

Chairman Gowdy. It does make sense. What also makes sense to me is that those are two very different reasons to decline prosecution. And there are justifications or explanations for both, but the line of questions that would be triggered depends upon whether or not it was a failure to meet an element of the offense or whether or not it was simply the exercise of prosecutorial discretion.

So I guess what I'm asking you is, can you think of an element of the offense, any of the offenses under contemplation, that was not met, that was absent, or was it that because there has not been a history of prosecution under this statute, we're just going to decline to prosecute?

Mr. Rybicki. Sure. As to the former question, I would say, you know, whether I can think of an element is missing, I can't, sitting here, but I don't want that to be sort of -- I want to be careful because,

again, that really was outside the bounds of what I was in there for. Does that make sense?

Chairman Gowdy. Uh-huh.

Mr. Rybicki. And the second part -- remind me.

Chairman Gowdy. Well --

Mr. Rybicki. I guess you were saying what elements were missing and then -- or was it -- it was just prosecutorial discretion?

Chairman Gowdy. Right. Because Director Comey's memo suggests both, and his testimony. When you say no reasonable prosecutor would go forward, that could be because no reasonable prosecutor has ever gone forward before, and we just think there's a fundamental flaw with the statute. That could be the explanation.

Mr. Rybicki. Sure.

Chairman Gowdy. His testimony in the past has centered on the issue of intent, and that's a very different analysis. If he did not believe that there was sufficient intent, then it makes me wonder why only that phrase was in the quote that I just read to you. [REDACTED]

[REDACTED]

Mr. Rybicki. Sure. That actually brings me to the second -- when I said there might have been another part of that.

[REDACTED]

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Chairman Gowdy. We'll get it for you.

Mr. Rybicki. I can certainly look for it.

Chairman Gowdy. You'll agree with me that [REDACTED] and we could be talking about any statute from a drug statute to a classified material, that's completely separate?

Mr. Rybicki. Yes, Mr. Chairman.

Chairman Gowdy. With just respect to this statute, was there something that could have happened in that interview that would have led the decision to be different, aside from perjury?

Mr. Rybicki. I think two things. I think the -- again, she could have admitted it, like you said, admitted to doing something.

Chairman Gowdy. Right. And my question to you is going to be, what do you mean by "it"?

Mr. Rybicki. That's why I changed it to something, because I don't know what the "it" is.

Chairman Gowdy. What do you mean by "something"?

Mr. Rybicki. Something that would rise to the level of a crime that would change the statement. I would say any crime.

Chairman Gowdy. Well, if intent is the hangup, which gets us back to whether or not the decision was made, we're just not going forward because nobody else has, or we're not going forward because we don't have intent, then there could be a lot of things she said that manifest an intent.

Mr. Rybicki. Certainly.

Chairman Gowdy. So as you sit here today, understanding that

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we're removed in time, do you believe this memo was drafted and the decision was made to not prosecute because no one had ever been prosecuted under the statute that you thought was applicable or because you were missing evidence on the element of intent?

Mr. Rybicki. Mr. Chairman, I think I'd go back to the same answer, which is I want to be careful about answering that because of passage of time and additional sort of information. I'm having a hard time recalling at the time, you know, what the decision was there or what the thinking was.

Chairman Gowdy. Is it your testimony that there could have been things said during that interview that would have led the Bureau to make a different recommendation?

Mr. Rybicki. As to Secretary Clinton's?

Chairman Gowdy. Yes.

Mr. Rybicki. Yes.

Chairman Gowdy. What would some of those things have been?

Mr. Rybicki. I think, again, I probably [REDACTED]

[REDACTED] I think -- gave additional evidence that would require the Bureau to follow up and which would have led to something, or like we discussed, admitted to something.

Chairman Gowdy. Were you present for the interview?

Mr. Rybicki. I was not.

Chairman Gowdy. Were you present for any of the preparation leading up to the interview?

Mr. Rybicki. No. They certainly discussed it in these

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executive updates, the fact of, but I was not involved with preparation of questions or format or anything like that.

Chairman Gowdy. Were you present when it was discussed who would be allowed in the room for the interview?

Mr. Rybicki. Mr. Chairman, I remember that coming up, and I don't remember whether it was before or after, who was in there. I vaguely remember, Mr. Chairman, that -- I vaguely remember a question of whether it should be FBI and DOJ. I'm sorry. No, Mr. Chairman, that's incorrect. That was in a different context. I don't remember.

Chairman Gowdy. We're out of time.

Mr. Rybicki. Thanks, Mr. Chairman.

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[2:53 p.m.]

Ms. Sachsman Grooms. Let's go back on the record. 2:53. I wanted to start by going back over some questions I had from the last round, because I think it got a little confusing --

Mr. Rybicki. Sure.

Ms. Sachsman Grooms. -- at points, and I wanted to clarify. But this is back related, I guess, to the draft statements that were being made.

Mr. Rybicki. Okay.

Ms. Sachsman Grooms. In the previous round with us, I think, we -- I had asked you a number of questions about the draft statement. I think you had told me, correct me if I'm wrong, that through the editing process, the goal was to make the statement more accurate. Is that right?

Mr. Rybicki. Right. I think what I meant to convey was to make it the most accurate, I mean, to ensure that it was delivered, that it was an accurate reflection of what the Director intended to convey.

Ms. Sachsman Grooms. And do you think that it did that?

Mr. Rybicki. I believe so.

Ms. Sachsman Grooms. And I believe that you had stated that the general sentiment of the team, as you understand it, understood it at the time, around May 2, when Director Comey drafted that statement, was that the FBI was going to recommend against prosecution of Secretary Clinton. Is that accurate?

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. Is it also fair to say that in the May 2 draft, that Director Comey did in his sort of initial draft, there were things that were not accurate. There were errors in there.

Mr. Rybicki. I don't know that I would characterize them as errors, but that's just me. I mean, certainly, it was intended to be commented on, and so I don't know if I would necessary -- I don't know if I would use the word "errors," but I think there were things that had to be changed, yes.

Ms. Sachsman Grooms. So let's just walk through a couple examples about what I'm sort of talking about.

Mr. Rybicki. Sure.

Ms. Sachsman Grooms. Let me mark this exhibit 5.

[Rybicki Exhibit No. 5

Was marked for identification.]

Mr. Rybicki. Thank you.

Ms. Sachsman Grooms. So Exhibit 5, for the record, is an email from you to James Comey on Friday, June 10, 2016, at 1:14 p.m. It's Bates stamped number SJC30 through 37. And the email doesn't have text within it but has an attachment that's a track changes draft. Is that accurate?

Mr. Rybicki. It is accurate.

Ms. Sachsman Grooms. Okay. And let's just look at the first page of that track changes draft. So in essentially the second sentence in Director Comey's original draft, it said, "I'm here to give

you an update on our investigation of Secretary Clinton's use of her private email system, which began in late August." And then somebody had put in the track changes to change that from late August to mid July. Is that right?

Mr. Rybicki. It is, correct.

Ms. Sachsman Grooms. And so that's what I was characterizing as an error. You didn't want to characterize it as an error but maybe an inaccuracy?

Mr. Rybicki. Yeah. I think that -- right. I don't know that there's a big distinction. I just, you know -- for instance, I don't know what the Director had in mind. Is that, you know, when the actual case was open. Was that when the referral came in, all those nuances, you know. But I think your point is absolutely fair.

Ms. Sachsman Grooms. And then lower in that same page, when talking about the investigation, there's a paragraph that's second to the bottom that reads, "Our investigation focused on whether there is evidence that classified information was improperly stored or transmitted on that private system in violation of a Federal statute that makes it a felony to mishandle classified information either intentionally or in a grossly negligent way, or a second statute that makes it a misdemeanor to remove classified information from appropriate systems or stored facilities."

And that original version said "to remove classified information from appropriate systems or storage facilities," but the track changes added in "to knowingly remove classified information from appropriate

systems or stored facilities." Is that right?

Mr. Rybicki. Correct.

Ms. Sachsman Grooms. And that would be another example of correcting something to make it more accurate within the statement that Director Comey had originally done. Is that right?

Mr. Rybicki. That's correct, yes.

Ms. Sachsman Grooms. And there are a number of those throughout. Is that a fair statement?

Mr. Rybicki. That's fair.

Ms. Sachsman Grooms. And these aren't -- just to sort of hammer home the point, which I think is pretty clear, these aren't matters of opinion. These are just factual issues with the content based on the information about the case or the information about the case law. Is that right?

Mr. Rybicki. That's right. I think it -- you know, and just to put a point on it, I think hopefully I've described it accurately when -- what I think when Director Comey sent this first draft around, it was meant as a starting point, right, based on his memory of these briefings and, you know, reduce it to writing, and then iterate off of that.

Ms. Sachsman Grooms. Do you know for certain whether Director Comey, when he drafted the May 2 statement, personally believed on May 2 that Secretary Clinton had treated the emails in a gross negligent way as referred to in the statute?

Mr. Rybicki. I don't want to speak for what he knew.

Ms. Sachsman Grooms. Would it be a better -- a question better put to Director Comey?

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. And is it also a better question to be put to the rest of the team what the team's view was on that specific point?

Mr. Rybicki. Yes, I think that's fair.

Ms. Sachsman Grooms. And I think you have said that you didn't really see your role as -- in this process as an operational member of the team. Is that right?

Mr. Rybicki. I think that's right. Right. I mean, certainly, you know, present, you know, for most of these discussions. Again, I think, you know, as you're thinking about the roles and the people in the room, you know, they were -- my role was less clear in terms of, you know, not part of the investigative team, not the lawyers, that type of thing.

Ms. Sachsman Grooms. And so, on the operational aspects or the aspects of the specific elements of the crime and whether these specific facts fit to that, would it be better to talk to other, more operational members of the team?

Mr. Rybicki. Yes, and/or the lawyers.

Ms. Sachsman Grooms. Okay. And would you describe Mr. McCabe as another -- as one of those people who would have been helpful to talk to as a more operational member of the team?

Mr. Rybicki. Mr. McCabe would have been closer to the team in that they report to him, but I think, you know, he's in the chain of

command and closer than I, but I still -- probably better for people who worked the case.

Ms. Sachsman Grooms. Okay. So Mr. -- talking to Mr. McCabe would still be better than talking to you. Is that fair?

Mr. Rybicki. It might be one step better. Just, again, he's a special agent. He knows the investigative world much better than I, but maybe not the best.

Ms. Sachsman Grooms. And if we wanted to know more details about the gross negligence language and its change, is it fair to say you're not the right person to talk to you? Because I believe you said you don't recall any specific discussions about it.

Mr. Rybicki. Well, I think that's right. And I want to make clear, I'm certain there were discussions, again, about the statute and, you know, the elements and things of that nature, right.

But I'm not recalling specific, you know, why did this change, the reasons for it, and so, I think that's right. I think it would be more fair for the, you know, the operational side and, again, the lawyers who were working on that closer. So --

Ms. Sachsman Grooms. It sounded to me, and I think sometimes in the last hour things got kind of mushed together when people asked questions and they sort of threw in extra words and you sort of agreed with them, frankly, in a lot of different circumstances, that sometimes you were out perhaps a little bit beyond what your specific memory was.

Is that a -- is that fair to say?

Mr. Rybicki. I think that's -- I think that is fair. I think,

you know, again, there's a risk, right, because, again, I was present for a lot of these discussions, but in a sort of different type of role, right, and also, the passage of time and things learned subsequent, it's hard to put everything together. So it's possible.

Ms. Sachsman Grooms. And that you -- and what I gathered personally from it, and I wanted to see if you thought this was accurate, was that you recall there being a lot of discussion over these issues.

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. But that you don't recall the specifics of actually what was discussed about these issues. Is that right?

Mr. Rybicki. That's fair.

Ms. Sachsman Grooms. Another thing that came up in the previous round I wanted to touch on and clarify, and maybe it would help if we look at exhibit 4. So exhibit 4 is an email from a redacted counsel to OGC to Michael Steinbach and someone else at the FBI. I'm not sure that you're actually on this email. Is that right?

Mr. Rybicki. I do not see my name on there.

Ms. Sachsman Grooms. Okay. And then it attaches a document called "Espionage Act charges retention, mishandling." Are you familiar with that document?

Mr. Rybicki. I didn't readily recognize it. I don't know if it was ever used in the discussions, but it didn't, you know -- whether it had been -- I don't recall it sitting here. You know, it's possible that it was circulated around or used in the briefings, but I'm just not recalling it.

Ms. Sachsman Grooms. Okay. And within that document, under "gross negligence," there's a line that sort of defines out gross negligence and then there's a note. And it says, "Note, DOJ not [REDACTED] to charge this. Only known cases are military cases when accused lost the information," and then in parentheses, "e.g., thumb drive sent to unknown recipient at wrong address," end quote.

Do you have any idea whether this document was created before or after July 5?

Mr. Rybicki. I do not, again, because I'm not readily recognizing it.

Ms. Sachsman Grooms. How about this one: The FBI, when it made its recommendation, when Director Comey made his public recommendation on July 5 not to prosecute Secretary Clinton, was that based on the FBI's analysis or something that the FBI had been told by the Department of Justice?

Mr. Rybicki. So I think -- well, two points, just to be careful on the wording. So you had said the FBI's decision not to prosecute, so just, again, for consistency, the recommendation not to recommend prosecution.

I think, like we talked about earlier, my recollection is that the investigative team was working with their colleagues in the Department of Justice throughout the process and were likely discussing. But I don't know for certain whether they've ruled in or out certain statutes or elements or things like that.

Ms. Sachsman Grooms. When the FBI executive team was having its

conversations, it was very specific to have those conversations without DOJ present. Is that right?

Mr. Rybicki. Yeah, I cannot recall a meeting where -- a briefing where DOJ was in those updates.

Ms. Sachsman Grooms. And clearly, Director Comey made a very intentional decision not even to inform the Department of Justice about what he was going to say at that briefing before -- at the public event on June 5 before he did it. Is that right?

Mr. Rybicki. Correct, and in his statement he made that clear.

Mr. Brower. Just a point of clarification. You said June 5. You meant July.

Mr. Rybicki. I didn't pick up on that. Thank you.

Ms. Sachsman Grooms. July. Yes. I'm sorry. I'm not perfect. I apologize.

Mr. Brower. That's why I didn't object. Offered a clarification.

Ms. Sachsman Grooms. And I believe you had explained earlier that the internal discussion of that executive team spent some time looking at case law and precedent in the previous cases, and that that was a discussion of the FBI's executive team and the FBI's general counsel's office. Is that accurate?

Mr. Rybicki. Yes. Yes.

Ms. Sachsman Grooms. Okay. So do you have any reason to believe that the -- that Director Comey and the rest of that team came to the recommendation not to prosecute, based on some direction from the

Department of Justice?

Mr. Rybicki. No, I don't believe so.

Ms. Sachsman Grooms. Do you have any reason to believe that Director Comey and the team came to that recommendation not to prosecute because you believed that if you sent it over to the Department of Justice, they would have declined it?

Mr. Rybicki. No, I don't believe so.

Ms. Sachsman Grooms. So is it fair to say that it was an independent decision of the FBI and in consultation with the FBI's general counsel's office?

Mr. Rybicki. I would say, yes; although, again, I do think it's likely that the investigative team was talking to the prosecution team, just like in many, many cases, and, you know, having -- just having a normal exchange.

And so I just want to be careful when we say independent. I don't think it was happening in vacuum, so FBI solely talking about the case. I do think there was involvement with Department of Justice.

Ms. Sachsman Grooms. But if the FBI's general counsel's office and the FBI's team had decided that it met the statutory requirements, and that it was appropriate to prosecute the case, and that your feeling was that you should recommend prosecution, you would have done that, right?

Mr. Rybicki. I think that's right, right. If everybody agreed that the evidence was there and to recommend prosecution, then I believe so.

Ms. Sachsman Grooms. And if everybody in the FBI had agreed that the evidence was there to recommend prosecution and some people at the DOJ hadn't agreed, would you have still recommended it?

Mr. Rybicki. I want to be careful in the abstract. I believe -- yeah.

Ms. [REDACTED]. Do you want to confer?

Mr. Rybicki. Sure. Confer one moment?

Ms. Sachsman Grooms. Uh-huh.

[Discussion off the record.]

Mr. Rybicki. Thank you.

Ms. Sachsman Grooms. Do you want me to repeat it?

Mr. Rybicki. Yeah, if you would. Yeah. Thank you.

Ms. Sachsman Grooms. If the FBI's analysis and determination was that you should recommend prosecution, but there were some people at the Department of Justice who would have disagreed with that, would you still have recommended prosecution?

Mr. Rybicki. So I don't want to speculate in the abstract on that.

Mr. Hiller. So there has been some suggestion -- this is just to clarify. There has been some suggestion that the words "grossly negligent" were removed from the draft of the Director's statement explicitly to avoid charging or to avoid any appearance that you were not going to charge a crime that -- for which there might otherwise be an evidentiary basis.

Just to get the sequencing right, from the Director's first

attempt on, it was his view and the consensus view of the group, that the FBI was not going to recommend charges on this case?

Mr. Rybicki. I think that is a fair characterization, yes --

Mr. Hiller. Okay. And --

Mr. Rybicki. -- based on the evidence.

Mr. Hiller. Right. Based on the evidence --

Mr. Rybicki. Based -- known then and then what was known up until the announcement.

Mr. Hiller. Perfect.

Mr. Rybicki. Yes.

Mr. Hiller. And that change was meant to reflect, in fact, the facts and the law as you understood it at that time?

Mr. Rybicki. I want to be careful because I don't know the exact -- I don't recall the exact reasons, so I don't want to -- I don't want to speculate, but that makes sense.

Mr. Hiller. Okay.

Ms. Sachsman Grooms. So let's -- we're going to switch topics to October. Can you tell us what happened in the sort of sequencing before Director Comey sent his letter to the Hill in October, before the election?

Mr. Rybicki. Certainly. On, I believe, October 26, the investigative team notified the Director's office that they needed to brief Director Comey on a sensitive issue regarding the Clinton email case. I believe that came from the Deputy Director's office, was my recollection.

The mid-year executive team, right, what I'll call it, reconvened that morning, I think it was the Thursday, the 27th, to go over this. And at that time, the briefing team informed the Director that emails, potentially related to the email investigation, had been found on a laptop in an unrelated investigation in New York, a laptop that was in the possession of the FBI from that unrelated case.

And the team sought -- was seeking authorization from the Director to ask the Department of Justice for -- if they could get legal process to view those emails.

Ms. Sachsman Grooms. And the team that briefed was the mid-year executive team or the -- were there any members of the group that were from New York?

Mr. Rybicki. I don't think anyone from New York was in that meeting. I don't recall that. I don't recall that sitting here. In my head, I was thinking it was the midyear team.

Ms. Sachsman Grooms. Did they explain when they had found out about these emails?

Mr. Rybicki. I don't recall. They walked through in some detail the other case and the emails on there, but I don't remember whether they went through the sequence of when they found them. They did give the Director indications of what they thought they might contain based on the limited view that they were able to see.

Mr. Hiller. But your belief is that October 27 was the first time the Director knew that this laptop was now in the possession of the FBI?

Mr. Rybicki. Right, that emails were found on that, yeah, laptop.

Mr. Hiller. Okay.

Ms. Sachsman Grooms. Was there any discussion during that meeting about a delay in the information coming up to the Director?

Mr. Rybicki. I don't know in that meeting. Subsequently, I've heard about these, so I want to be careful sitting here relaying what was said in that briefing. But that certainly, I think, subsequently came up, but I just don't recall whether the whole timeline was brought up in that briefing.

Ms. Sachsman Grooms. When the timeline came up subsequently, was that an internal FBI or are we talking about media?

Mr. Rybicki. I don't recall. I don't recall.

Ms. Sachsman Grooms. And so, did the Director make a decision at that meeting or following the meeting?

Mr. Rybicki. He did. He made a decision in that meeting to allow the investigative team to go to DOJ to seek the search warrant. And the investigative team had also told the Director that DOJ was in agreement that -- because there was some thought to possibly waiting to obtain the search warrant.

And the investigative team had said that the Department of Justice had agreed that they should, you know, that they'd be amenable to the search warrant going forward at that time.

Mr. Hiller. What were the reasons for possibly delaying obtaining that search warrant?

Mr. Rybicki. I think, in this case, election year sensitivities.

Ms. Sachsman Grooms. But the decision was not to delay?

Mr. Rybicki. Correct.

Ms. Sachsman Grooms. Was it discussed why it would need to happen immediately?

Mr. Rybicki. My recollection is that it was. I just can't remember the reasoning why they -- because I do remember some discussion of, you know, the laptop is in the possession already of the FBI. Why would you need to get it now. But I don't recall why they felt like they needed to go at that time.

Ms. Sachsman Grooms. Because the laptop itself was in the possession of the FBI. It's not like somebody was going to remove information from that laptop at that point, right?

Mr. Rybicki. Correct.

Ms. Sachsman Grooms. Do you know who at DOJ they had consulted with? You said during the meeting that they said that they had talked to somebody at DOJ who was supportive.

Mr. Rybicki. Yeah. I don't know specifically.

Ms. Sachsman Grooms. And following that -- was there a decision made during that meeting about whether to publicly announce it or talk to Congress or just to move forward with the search warrant?

Mr. Rybicki. So once the Director had made the decision to allow him to seek the search warrant, that's when the issue was surfaced of what he believed his obligation was to supplement the record, the public record based on his testimony and statement.

And it was -- I want to say it was in that same meeting. If it wasn't the same meeting, it was very close in time, so meaning same day, within hours, but I believe it was the same sitting, to send the letter, or to begin drafting what, you know, could be sent.

Ms. Sachsman Grooms. And I don't want to belabor the point, because I think you've spoken about it and Director Comey has spoken about it, but it sounded to me like Director Comey had a strong personal view that he needed to come back to Congress based on his previous testimony?

Mr. Rybicki. That's correct. I don't want to speak for the Director, but that was -- as I evaluated the need for it, that was my takeaway that the Director felt that he alone had the obligation to supplement the testimony because he gave the testimony.

Ms. Sachsman Grooms. Did anyone during that discussion raise concerns about moving forward, concerns about the election, concerns about telling Congress?

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. Who?

Mr. Rybicki. So this -- as to the statement, I know that Trisha Anderson raised a concern about -- I think it was generally phrased as, you know, are we concerned that doing this will help elect candidate Trump to the presidency.

Ms. Sachsman Grooms. And did she say that in that initial meeting or a later meeting?

Mr. Rybicki. My recollection, it was definitely the same day.

I just can't remember if it was, again, that same sitting.

Ms. Sachsman Grooms. And did she phrase it like that, as a question, essentially?

Mr. Rybicki. I can't say for certain. It was definitely words to that effect, but I can't say if it was phrased in the form of a question.

Ms. Sachsman Grooms. And what was the response?

Mr. Rybicki. The Director's response was, we just can't consider that. It would not be appropriate to consider that.

Ms. Sachsman Grooms. Were any other concerns raised?

Mr. Rybicki. That's the one that stands out to me. There was, again, a lot of discussion at that point about, sort of, how to do it and those types of things. So the only objection really that stands out was Trisha Anderson's.

Ms. Sachsman Grooms. Was there any discussion in the room about having election year sensitivities, Department policy, FBI policy not to comment or take actions directly before an election?

Mr. Rybicki. I don't recall at that setting. There certainly were subsequent in discussions that I had with the Department of Justice, and possibly, you know, based on those discussions with the group. I just don't recall if they were enumerated in the meeting with the Director.

Ms. Sachsman Grooms. It's fair to say that, generally, Department practice is not to take action right before an election. Is that right?

Mr. Rybicki. It's a little more nuanced. It has to do with what the investigation entails, what the action is. But the election year sensitivity memo also contemplates needing to take action and gives a procedure to do so.

Ms. Sachsman Grooms. Sure. That's the election sensitive memo, which is a specific memo. But are you aware of a general practice at Department of Justice and the FBI not to take overt acts against public figures right before elections?

Mr. Rybicki. I think that is the general practice, yes.

Ms. Sachsman Grooms. Was there a discussion in that initial meeting or the subsequent meetings that you guys were going against that general practice?

Mr. Rybicki. I don't recall in the initial meeting. After I spoke with the Department of Justice -- and I can get into that -- where we talked about it, it was definitely raised later as, you know, as a concern. But by that time, we had already talked to the Department who -- well, let me -- do you want to continue?

Ms. Sachsman Grooms. Sure. You can walk through it. Who did you talk to at the Department and when?

Mr. Rybicki. So out of that meeting, the Director asked me to contact [REDACTED] who served as the principal associate deputy attorney general -- I think I got that right -- PADAG, to let him know of the Director's decision about going to seek the search warrant and then the idea of issuing a letter.

Ms. Sachsman Grooms. And did you do that?

Mr. Rybicki. I did.

Ms. Sachsman Grooms. And when -- do you recall when you spoke to [REDACTED]?

Mr. Rybicki. I believe it was later that same afternoon on the 27th.

Ms. Sachsman Grooms. And do you remember the contents of that conversation?

Mr. Rybicki. Not verbatim, but generally.

Ms. Sachsman Grooms. Can you share them?

Mr. Rybicki. Sure. So I relayed to him the Director's decision about going to seek the search warrant. He seemed to indicate that he knew generally about it, and didn't seem to have any concerns with that.

I then told him about the idea of the letter, and it was a, what I would describe was a negative reaction to sending a letter and basically -- or generally, words to the effect of, you know, we just don't do this or something like that. And then we had many subsequent conversations to that.

Ms. Sachsman Grooms. Did he explain to you what he meant by, We don't do this?

Mr. Rybicki. Over the course of our discussions that day.

Ms. Sachsman Grooms. Do you recall --

Mr. Rybicki. You know, basically what we've spoken about, right, being so close to an election, not doing something like this, not taking -- not making public an overt step like this. And I had

explained to him what the Director's feeling was on it, you know, what the idea was, to send the letter to whom.

I had called -- at one point, I called him and asked him to send me any policies, guidelines that governed such activity.

Ms. Sachsman Grooms. And did he send you a policy?

Mr. Rybicki. We talked about it. He -- we talked about the U.S. attorney's manual, guidance generally, about speaking about cases. My recollection is that we talked about another document and he possibly sent it to me, but I don't recall what that was or if -- but I think that one wasn't directly on point.

And then we talked about the election year sensitivities memo. He didn't have the most current years in front of him, so I remember we just said, let's just Google it. And I believe we were using the 2012 version, which is substantially the same as that year's.

Ms. Sachsman Grooms. And did you take that information back and discuss it with others at the FBI?

Mr. Rybicki. We -- I talked to [REDACTED] a lot about it first. We sort of walked through that memo to figure out, you know, does it govern this scenario. I think we decided it wasn't directly on point because of, you know, how the memo was captioned and -- but we acknowledged there is a procedure in there for contacting the Public Integrity Section, right, and those kind of things.

So [REDACTED] contacted the Public Integrity Section without specifics of the case to get general guidance as to what they would recommend. I don't recall what their guidance back was. As I sit here, I just -- I

don't remember if he relayed it to me. I'm sure he did, but I just don't recall what it was.

Ms. Sachsman Grooms. So you don't recall if the Public Integrity Section said, that's great, no problem, or, no, we have a serious problem with that?

Mr. Rybicki. That's right. That's right, because the other part of that calculus, again, is this case didn't fit into sort of, number one, they didn't have all the facts because he was telling them in the abstract; and number two, it didn't fit into that sort of rubric.

Ms. Sachsman Grooms. It didn't fit into the rubric meaning it didn't fit into the specific language of the election sensitivity policy --

Mr. Rybicki. Correct.

Ms. Sachsman Grooms. -- because the election sensitivity policy has specific language in it about an election year investigation or election crime?

Mr. Rybicki. And -- right, exactly, type of crime. I think that's right.

Ms. Sachsman Grooms. So because it didn't fit into that policy, you didn't really think that he needed to contact the Public Integrity Division?

Mr. Rybicki. No, I don't think I would say that. I think we both thought it's worth running it by them because it's the closest, you know, that was on point. But I think we both readily recognized that it didn't fit into -- again, because they wouldn't know the specifics,

and it wasn't directly on point to the issue at hand.

I think the takeaway, in my mind, was the memo contemplates coordination, consultation with the Department of Justice, right, and what [REDACTED] and I were doing was exactly that, right. So I think the election year sensitivity memo would say, you know, FBI, you don't take action on your own. Contact public integrity and all those steps.

I think what we were doing with the Deputy Attorney General's Office was akin to that process.

Ms. Sachsman Grooms. And during that coordination, did the Deputy Attorney General's Office tell you that they wanted you to move forward?

Mr. Rybicki. No.

Ms. Sachsman Grooms. So, ultimately, at the end of that discussion, what did [REDACTED] say?

Mr. Rybicki. They recommended against sending the letter.

Ms. Sachsman Grooms. So they recommended moving forward or they agreed with moving forward with the actual search warrant, but recommended against sending a letter to Congress?

Mr. Rybicki. Correct.

Ms. Sachsman Grooms. Did they say until after the election or just ever?

Mr. Rybicki. I don't recall.

Ms. Sachsman Grooms. And the reason for it was a concern about taking a public action right before an election?

Mr. Rybicki. Correct.

Mr. Hiller. What was the justification behind the Director's decision to send the letter anyway?

Mr. Rybicki. Over the objections?

Mr. Hiller. Over the objection of the Department.

Mr. Rybicki. I think it was, again, his sense that he had the obligation, given the testimony that he had given to supplement the record.

Mr. Hiller. And was that his -- the only reason given as a justification for it?

Mr. Rybicki. I don't want to speak for what the Director thought. I mean, that was what I understood.

Mr. Hiller. Okay. Two days after that October 7 meeting and whatever subsequent discussions you had, The New York Times reported that -- I'll just read from it. Quote, "Although Mr. Comey told Congress this summer that the Clinton investigation was complete, he believed that if word of the new emails leaked out, and it was sure to leak out, he concluded, he risked being accused of misleading Congress."

Was there any discussion of the potential of this -- of the existence of these emails or any additional investigative step you might be taking about them leaking out before Mr. Comey could disclose it?

Mr. Rybicki. I think there was discussion about the Director's view that taking no action -- doing nothing was akin to concealing before the election. So, in essence, taking -- doing nothing was

taking inaction by concealing.

Mr. Hiller. Was there a concern that had you even delayed the public announcement as perhaps the Department suggested, the information would have been conveyed to Congress or the public through other means?

Mr. Rybicki. I don't think it was that specific, but I think -- I do remember discussing, you know, if this came out after the election, for instance, right, there would be implications to that.

And, you know, so I don't remember specifically talking about the information leaking out prior but just, you know, again the Director's view that, you know, it would be an act -- it would be an act of concealment to not disclose it.

Ms. Sachsman Grooms. In the discussions that you do recall that if the information came out after, right, you just referenced, can you describe what that discussion was, what the implications were?

Mr. Rybicki. Again, just that it was, you know, an action was taken, and, you know, the FBI did not disclose to Congress that it had happened.

Ms. Sachsman Grooms. So was the discussion that Congress would then be angry? I mean, is that the --

Mr. Rybicki. I don't know if I can characterize it that way. It's just, again, the Director felt like he had the obligation, that what he had testified to was no longer accurate.

Ms. Sachsman Grooms. And then did you take [REDACTED] response back -- and the sort of concerns he raised back and discuss

it with the larger group?

Mr. Rybicki. I don't recall specifically. I'm sure that I did. It was -- you know, there was a lot happening at that point. They had begun drafting the letter, and I'm sure, you know, it was conveyed. Whether it was conveyed back in a group setting, you know, with the whole group or just as part of that drafting process, I can't remember.

Ms. Sachsman Grooms. Do you remember any specific discussions around the response to the concerns that Mr. [REDACTED] raised?

Mr. Rybicki. I do not.

Ms. Sachsman Grooms. And then can you describe for us how the letter itself was drafted?

Mr. Rybicki. Sure. An attorney in -- one of the attorneys that was a member of the executive briefing team took the initial drafting pen on that and then it was circulated to the group.

At one point, a subset of the group, basically without the Director, you know, a couple of the senior executives, gathered in a conference room, put it up on the big screen and edited it that way together.

Ms. Sachsman Grooms. And who was the attorney who took the pen?

Mr. Rybicki. That was -- I believe it was [REDACTED]

Ms. Sachsman Grooms. And after the meeting and the editing of the document, did anything else happen before it got sent?

Mr. Rybicki. Again, there were a lot of discussions with [REDACTED] between [REDACTED] and I, you know, about the fact of the letter, discussions about the election year sensitivities, you know, and then the drafting

process. I'm just trying to make sure I don't leave anything out. I mean, that's generally what ensued after that.

We did, as I alluded to in one of the earlier panels, we did draft an email to the workforce, as was the Director's custom was to send emails to the workforce explaining big decisions, and this was certainly a big decision. So he felt that it would be appropriate, but we drafted it with the thought that we would not release it again unless this letter became public.

Ms. Sachsman Grooms. You thought it would be appropriate to explain, if and when the information became public, to explain the reasoning behind the decision to the FBI staff?

Mr. Rybicki. Right.

Ms. Sachsman Grooms. Is it fair to say that there was an expectation that by sending the letter to Congress it would become public?

Mr. Rybicki. I think it was a -- I don't think it was an expectation. I think it was acknowledged that it was likely to become public, but it was the best shot at it not being, you know -- the best shot at not just sending a letter or posting to the website but, you know, trying to keep it nonpublic without improperly classifying it.

Ms. Sachsman Grooms. It was the best thing that the group could think of?

Mr. Rybicki. That is correct. It's the best thing the group could think of.

Ms. Sachsman Grooms. I want to switch back to just the initial

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decision to make public that the FBI was investigating Secretary Clinton and this sort of, in combination, I guess, with the secondary decision about making public these issues in October. And talk about the -- I'm sorry. Yes.

Mr. Rybicki. Which issues in October? The letters?

Ms. Sachsman Grooms. Yes. I'm sorry. The letters in October, yes, the search warrant letter.

Mr. Rybicki. Got it.

Ms. Sachsman Grooms. Do you agree that the public actions of the FBI regarding Secretary Clinton as she was campaigning for President had a potential impact on her ability to get elected?

Mr. Rybicki. I don't think I can characterize that.

Ms. [REDACTED] May I confer?

Ms. Sachsman Grooms. Uh-huh.

Mr. Rybicki. Thank you.

[Discussion off the record.]

Mr. Rybicki. I don't think I can speculate on that.

Ms. Sachsman Grooms. So you don't have a personal opinion as to that?

Mr. Rybicki. I don't think -- my personal opinion didn't enter into the decision-making there, or the advice, any advice that I did give.

Ms. Sachsman Grooms. When Director Comey made public statements regarding the FBI's investigation of Secretary Clinton, was the purpose, as you know it, ever to impact the outcome of the election?

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Mr. Rybicki. No.

Ms. Sachsman Grooms. Did Director Comey take any steps to try to avoid having an impact on the election?

Mr. Rybicki. Can we add the "as I know it"?

Ms. Sachsman Grooms. As you know it, yes.

Mr. Rybicki. As I know it, I believe he did. You know, we've referenced some of them again, you know, making the letter to Congress, you know, not making public statement, those types of decisions.

Ms. Lofgren. Did Director Comey ever indicate that he felt the FBI or he, himself, would be criticized for failing to disclose the investigation?

Mr. Rybicki. Congresswoman, on the initial disclosure?

Ms. Lofgren. Uh-huh, and also the secondary.

Mr. Rybicki. Certainly as to the October letters, I think the answer is yes to that, ma'am. I think the -- one of the big concerns -- and, again, I want to be careful not to speak for the Director, but one of the big concerns was that having made the decision to take an investigative step, having testified that the FBI was finished, by not disclosing -- by not supplementing it to the Congress that he would be concealing it, and so I know that was a concern.

Ms. Lofgren. So it was about his reputation and the Bureau's?

Mr. Rybicki. I don't think it was about the reputation. I think it was -- as I understood it, I think it was his obligation as the only person who testified under oath about it, his obligation to supplement it. That's how I understood it, ma'am.

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Ms. Sachsman Grooms. Were there any other steps you took to avoid trying to have an impact on the election? You said sending the letter to Congress instead of making it immediately public was one step. Were there other steps?

Mr. Rybicki. That's the only one that comes readily to mind. I mean, I think the, you know, for instance, the -- this is my view, the -- I mean, the timing of the case and the July 5 announcements, I mean, it ended when it ended, right.

It was the ending -- that time, right, was the ending of the FBI's investigative action, and so there really was no, you know -- as soon as the last interview was done, it wrapped up, and the statement was made. So I think there was -- you know, whether that happened on July 5 or later, right, it was, you know, just the timing of the investigation.

Ms. Sachsman Grooms. So the July 5 statement was not an example of Director Comey trying not to have an impact on the election?

Mr. Rybicki. Correct. Exactly. Right. I didn't mean to conflate the two. That's right.

Ms. Sachsman Grooms. So the one example you have, and there's just one, is sending the letter to Congress as opposed to making it public in October?

Mr. Rybicki. That's the only one that stands out to me. I don't know if it was the only one.

Ms. Sachsman Grooms. Well after the election, and Mr. Gowdy asked about this previously, in March of 2017, Director Comey disclosed in public testimony that the FBI had begun an investigation into, and

I'll quote here, "the Russian Government's efforts to interfere in the 2016 presidential election," end quote, including, and I'll quote again, "the nature of any links between individuals associated with the Trump campaign and the Russian Government and whether there was any coordination between the campaign and Russia's efforts," end quotes.

We understand, and I believe you testified earlier, that the investigation actually began before the election in July of 2016. Is that accurate?

Mr. Rybicki. I don't remember the exact start date, but I remember it was summer of -- late summer, 2016, yes.

Ms. Sachsman Grooms. So before the election?

Mr. Rybicki. Before the election, correct.

Ms. Sachsman Grooms. But no news of the investigation regarding President Trump's campaign leaked out to the press. Are you aware of any leaks before the election related to the investigation into, and then as Mr. Comey described it, the nature of any links between any individuals associated with the Trump campaign and the Russian Government?

Mr. Rybicki. I'm sorry. Am I aware of any delays --

Ms. Sachsman Grooms. Are you aware of any leaks before the election into that investigation?

Mr. Brower. Yeah. Let me -- counselor, this, I think, is beyond the scope of --

Ms. Sachsman Grooms. We're well within it.

Mr. Brower. If you could articulate for the record then why it's within the scope.

Ms. Sachsman Grooms. Sure. We are well within the scope because the scope of this investigation includes the disparate treatment of the investigation into the Trump campaign matter at the exact same time as the issue was being made public into the Clinton matter. This is -- I'm well within exactly where Mr. Gowdy was in the last round also.

Mr. Brower. Yeah. And referring back to the chairman's letter inviting Mr. Rybicki to testify, I think that's right. There is -- part of the letter articulates just that. So I think we're fine. Thank you for clarifying that.

Ms. Sachsman Grooms. No problem.

So are you aware of any leaks before the election regarding the investigation into, and for lack of a better term, the Trump campaign matter?

Mr. Rybicki. I can't think of the time period. I know there were a lot of articles, and I'm having trouble just placing all of them. Unfortunately, there were a lot of leaks about a lot of things during that time period. And so I'm just -- my memory could probably be refreshed, but I'm just not sitting right now remembering that.

Ms. Sachsman Grooms. Do you recall when Director Comey made the decision to disclose the existence of the investigation into the Trump campaign, which he did disclose in March of 2017. Do you remember when he made that decision?

Mr. Rybicki. I do not. He disclosed it after consultation -- in consultation with the Department of Justice at that March House Intelligence hearing. I don't know if that was the impetus for it, or the, I guess, vehicle for it. I don't know when he made the decision to do so, the best I can recall.

Ms. Sachsman Grooms. Do you recall why he decided to do it when he decided to do?

Mr. Rybicki. I don't recall.

Ms. Sachsman Grooms. Did you have any discussions with him about the decision to make that public?

Mr. Rybicki. I was aware of -- yes. I was aware of the statement and the sort of drafting of it in coordination with Department of Justice. I just can't recall the specifics on -- as to the why. I think -- I want to be careful about speculating, but there were -- I want to be careful about speculating.

Ms. Sachsman Grooms. Did any conversation about whether to make public the investigation into the Trump campaign occur before the 2016 election?

Mr. Rybicki. I don't believe so, as it pertains to the -- may I just check with counsel one second? I just want to --

Ms. Sachsman Grooms. Uh-huh.

[Discussion off the record.]

Mr. Rybicki. Thank you. Sorry. I just want to be careful because of a classification issue. Can you just state the question one more time, please.

Ms. Sachsman Grooms. Sure. Were there any conversations that occurred before the 2016 election about whether to publicly disclose that the FBI was investigating a Trump campaign official?

Mr. Rybicki. There were discussions before the election about whether to disclose the fact of Russian interference in the election. I don't recall specific discussion about publicizing the fact of possible investigations into associates of candidate Trump.

Ms. Sachsman Grooms. And when you say there were discussions about whether to disclose Russian interference with the election, can you describe what those discussions were?

Mr. Rybicki. Sure. The -- in an effort to inoculate the American public to possible Russian interference with the election, the Director had proposed doing an op-ed with, I believe it was the DNI, talking about this, that ultimately did not go forward.

And this came up again, I think, right before the election. And, again, I want to be careful, just for classification, who the participants were. This came up again before the election, and it was the Director's view at that time that it was too close to the election, that the inoculation had already taken place because of other means, and so he did not sign onto that effort at that time.

Ms. Sachsman Grooms. Okay. In either of those two discussions at the FBI, was there consideration made into the fact that there was this ongoing investigation into the Trump campaign official and Russia connected?

Mr. Rybicki. I don't recall. I want to be careful because

when -- you know, subsequent to that, right -- I just want to be careful what I knew at the time and maybe learned after, you know. It was very early in that investigation, and I don't know if that played into it, but I want to be careful to speculate because I just don't recall specifics about whether that was discussed or not.

Ms. Sachsman Grooms. Do you know why the FBI decided not to disclose publicly before the election that the FBI was investigating the nature of any links between individuals associated with the Trump campaign and the Russian Government?

Mr. Rybicki. I don't.

Ms. Sachsman Grooms. You don't, okay.

Is it fair to say that you and your team at the FBI never considered the question of whether to make a public announcement about that matter before the election?

Mr. Rybicki. I don't recall. Again, I go back to, at least my proposition, that in a context of the Clinton email investigation, I don't think it'd be appropriate to, you know, because you took action here to take action there, that type of analysis. But I don't recall a specific discussion about whether to disclose that particular investigation.

Ms. Sachsman Grooms. Is it fair to say you don't recall any analysis at all about whether to disclose the Trump investigation, the Trump campaign official investigation?

Mr. Rybicki. I just don't recall.

Ms. Sachsman Grooms. Were you aware of the Trump campaign

official investigation before the election?

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. Do you know if Peter Strzok was aware?

Mr. Rybicki. I believe he would have been, although I don't want to speak for him.

Ms. Sachsman Grooms. Do you know whether Lisa Page would have been aware?

Mr. Rybicki. Again, I just want to be -- as to individuals, I would say, yes, they were aware given their roles.

Ms. Sachsman Grooms. [REDACTED]

Mr. Rybicki. I think that goes beyond the scope of what I --

Mr. Schools. Yeah. That seems to be more about the detail of the investigation. I get that in some ways what they knew might inform what they would disclose, but that's a slippery slope.

Ms. Sachsman Grooms. So what they knew, especially in the area of this particular area, is relevant to both the analysis about what's in the public interest, right, which is going to be part of a decision about what to disclose, and also relevant to what factors they had as they were deciding not to disclose. So I think we're well within the scope.

Mr. Schools. He's testified he doesn't recall any discussions about whether to disclose it or not. So it seems to me that with respect

to this witness, any additional questions as to what the FBI may have known that would have informed those discussions seems outside the scope, both of his knowledge and of his appropriate testimony.

Ms. Sachsman Grooms. I think we'll break for now then.

Mr. Hiller. Thank you.

Mr. Rybicki. Thank you.

[4:00 p.m.]

Mr. Parmiter. We're back on the record.

I want to follow up, if you don't mind, on one of the things that you were discussing with Congressman Ratcliffe a couple hours ago at this point.

Mr. Rybicki. Okay.

Mr. Parmiter. You had testified a couple of times that, you know, there was a lot of discussions surrounding the statute, in this case we're talking about 18 U.S.C. 793(f), the Espionage Act statute, with OGC, including, you know, a variety of folks from there, Mr. Baker, Ms. Anderson, Ms. [REDACTED], and that they consulted case law and precedent. And so I guess one of my first questions is was anyone advocating for charges in those meetings, to your recollection?

Mr. Rybicki. To my recollection, no. At least at the point that we were discussing them, I don't believe so.

Mr. Parmiter. Okay.

Mr. Rybicki. I think people were making arguments about how they might fit, not fit and things like that, but I don't remember any passionate argument, you know, that was overruled, for instance.

Mr. Parmiter. Was your recollection it was essentially a very, you know, legalistic argument about the elements of the statute, about -- you know, what was your view of the argument?

Mr. Rybicki. I think that's a fair characterization.

Mr. Parmiter. Okay. So how long have you been at DOJ in your varied capacities?

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Mr. Rybicki. Sure. Since 2001.

Mr. Parmiter. Since 2001. Okay. So do you know whether anyone has ever been charged under 793(f)?

Mr. Rybicki. I don't recall. Again, I think this is one of the things they talked about in those discussions. I just -- sitting here, I don't recall.

Mr. Parmiter. Right. So do you know if any FBI employees have ever been charged with 793(f)?

Mr. Rybicki. Sitting here, I don't.

Mr. Parmiter. Okay. What number are we up to again? Six. So I'm going to show you what we're going to mark as exhibit 6 here. And I'll go ahead and --

Mr. Rybicki. Thank you.

[Rybicki Exhibit No. 6

Was marked for identification.]

Mr. Parmiter. If you look at this, this is an email from --

Mr. Brower. Do you have a copy of this?

Mr. Parmiter. Yeah. I'm sorry, I believe we only have three of these.

And just for the record, what this is is a document produced to this committee by the FBI -- or by DOJ, I'll say. The Bates stamp is FBI 449 and 450.

If we're looking at the second page first, this appears to be -- I mean, do you recognize this document, first of all?

Mr. Rybicki. Now that I see it, I have a vague recollection of

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it. I don't know if it was sent to me or shown to me. It looks vaguely familiar.

Mr. Parmiter. Okay. If you look at page 2 of it, under the heading which comes from an AOL address that has been redacted, and I believe it was an email to Mr. Bowdich, the first line says, "Remember former SSA," blank, "of the LAFO, he was charged with the gross negligence criminal count. It can, was, and should be done here." Then he goes on to say a few other things. SSA stands for?

Mr. Rybicki. Supervisory special agent.

Mr. Parmiter. And what is LAFO?

Mr. Rybicki. In this context, it's probably the Los Angeles field office.

Mr. Parmiter. So are you familiar with the case that this person is referring to?

Mr. Rybicki. I'm not.

Mr. Parmiter. Is this -- have you ever heard of the case involving former Supervisory Special Agent [REDACTED] of the L.A. field office?

Mr. Rybicki. I don't recall it, sitting here.

Mr. Parmiter. In the 2002 timeframe, 2003?

Mr. Rybicki. I don't recall.

Mr. Parmiter. Okay. Do you know whether or not anybody talked about this particular case during those discussions of the gross negligence statute?

Mr. Rybicki. I don't recall. Again, we had a pretty

comprehensive list of cases. I don't recall if that was on there or not. Again, I have a vague recollection that I've seen this email somewhere, but it's not ringing sitting here.

Mr. Parmiter. Okay. I'm going to show you what we're going to mark as deposition exhibit -- or rather exhibit 7.

Mr. Breitenbach. Do you recall -- there was a redaction on that document. Do you recall on the AOL address who that might be?

Mr. Rybicki. I do not.

Mr. Breitenbach. Okay.

Mr. Somers. Could you guys provide us with an unredacted copy of that email, not now but at some point?

Mr. Brower. We'll have to take a look and consider that request.

Mr. Somers. I'm making the request to get an unredacted copy.

Mr. Parmiter. Okay. Let me show you what we're marking as exhibit 7.

Mr. Rybicki. Okay.

[Rybicki Exhibit No. 7

Was marked for identification.]

Mr. Parmiter. Do you recognize this document, either page 1 or page 2?

Mr. Rybicki. I don't readily recognize it. I certainly recall talking about these cases. It appears to be an email to me, but I don't readily recognize it.

Mr. Parmiter. Okay. And what is on page 2?

Mr. Rybicki. Page 2 appears to be -- it's titled HRC talking

points. It talks about the difference of the investigation vice, the David Petraeus and Berger cases.

Mr. Parmiter. Okay. And do you know who prepared these talking points?

Mr. Rybicki. Based on the email, it appears that -- the original email is from Pete Strzok to several individuals, and it looks like someone -- and, again, based on the signature line, it would make -- it would appear to be Lisa Page forwarded that to me.

Mr. Parmiter. Okay. And just to clarify, earlier you referred to Ms. Page as in the deputy director's office right when we started the interview.

Mr. Rybicki. Correct. That's correct.

Mr. Parmiter. Was she there -- is that her full-time job?

Mr. Rybicki. Yes. She's an Office of General Counsel attorney. I don't know if she is formally detailed, but she worked in the deputy director's office.

Mr. Parmiter. Okay. So would it be fair to say you were or were not involved in the production of these talking points?

Mr. Rybicki. I don't -- I didn't type them, if that's the --

Mr. Parmiter. Did you engage in any discussions with anyone about the need for talking points distinguishing the Petraeus and Berger cases from the Clinton case?

Mr. Rybicki. I don't -- I don't recall that. Again, I certainly remember talking about these two cases were sort of -- as we talked about various cases and the case law in this area, these two were brought

up. I don't recall the working on the talking points of them.

Mr. Parmiter. Do you recall discussion among the briefing team about the need for talking points distinguishing these two cases?

Mr. Rybicki. I don't, but it's certainly possible.

Mr. Parmiter. All right. I'm going to show you one more document here, which we're going to mark as exhibit 8.

Mr. Rybicki. Thank you.

[Rybicki Exhibit No. 8

Was marked for identification.]

Mr. Parmiter. Do you recognize that document?

Mr. Rybicki. I don't readily recognize it, but it appears to be an email, again, with the same talking points and me forwarding it to [REDACTED].

Mr. Parmiter. Who is [REDACTED]?

Mr. Rybicki. [REDACTED] was a special government employee of the FBI, who -- he's a professor at -- the institution popped out of my head, in New York.

Mr. Parmiter. [REDACTED] Law School?

Mr. Rybicki. [REDACTED] Law School. A professor at [REDACTED] Law School, who served as a special government employee to the FBI.

Mr. Parmiter. Okay. So what is a special government employee?

Mr. Rybicki. It is a designation, so it's an unpaid position. I don't know all of the parameters surrounding it. So he had a memorandum of understanding and was working on various projects for the FBI. He had a clearance and badge access to the building, but

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didn't -- you know, he didn't work full time or, you know, have an office in the building, that type of thing.

Mr. Parmiter. And what were the circumstances that led to Mr. [REDACTED] being a -- being brought onboard as a special government employee?

Mr. Rybicki. Director Comey had asked to bring him on to help with some special projects.

Mr. Parmiter. Is that fairly frequent? I mean, is that a rare occurrence or is it a frequent occurrence that special government employees come on at the behest of the Director?

Mr. Rybicki. He was the only one that we brought on during the time.

Mr. Parmiter. Are you aware of any other special government employees at the FBI at any time?

Mr. Rybicki. I am not.

Mr. Parmiter. Okay. What was the nature of Director Comey's sort of relationship with Mr. [REDACTED] while he was at the FBI?

Mr. Rybicki. I don't know if it would be fair for me to characterize it. I don't know the extent of their communications. Again, he was brought on to work on some special projects, mostly in an advisory capacity, but I don't know it'd be fair for me to characterize.

Mr. Parmiter. Were any of the special projects the investigation we've been talking about today?

Mr. Rybicki. No. The biggest special project was the Going Dark

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initiative.

Mr. Parmiter. Okay. So I guess if he wasn't working on this investigation, why were you emailing him the talking points?

Mr. Rybicki. Sure. It's likely that I was asked to send them to him, although I don't readily recall that.

Mr. Parmiter. Asked by Director Comey?

Mr. Rybicki. Asked by Director Comey or someone else. Again, I want to avoid being speculative because I don't have -- I don't recall him actually asking me, but I also don't recall having a discussion with Mr. [REDACTED] about it that would prompt me to send it to him.

Mr. Parmiter. Okay. What internal approvals are required to become a special government employee?

Mr. Rybicki. I would have to defer on that one. I don't know all the requirements. I know he had an MOU through the Office of General Counsel, and again, a clearance, but I don't know the process.

Mr. Parmiter. Did he have to take a polygraph examination like other FBI employees?

Mr. Rybicki. I don't recall the answer to that.

Mr. Parmiter. Did Director Comey have any -- well, for one, I don't know if you're aware, but he identified himself on [REDACTED] University's website as, quote, "currently an adviser to FBI Director James B. Comey."

Did the Director have, you know, have any other outside advisers?

Mr. Rybicki. Not as special government employees.

Mr. Parmiter. So we already went over whether Director Comey

directed you to send the email, and you're not clear on that?

Mr. Rybicki. I just don't recall the specific conversation. Again, I would say it's likely, but I can't picture the actual conversation.

Mr. Parmiter. Okay. You served as deputy chief of staff for Director Mueller too?

Mr. Rybicki. No.

Mr. Parmiter. You served under Director Mueller in some capacity?

Mr. Rybicki. I did not.

Mr. Parmiter. Okay. To whom did you serve as deputy chief of staff?

Mr. Rybicki. Director Comey.

Mr. Parmiter. Director Comey. I'm sorry. So in your estimation when you were serving in a different capacity at DOJ, did Director Mueller have any outside advisers, that you're aware of?

Mr. Rybicki. I don't have any information on that.

Mr. Parmiter. Okay.

Mr. Somers. Is Professor [REDACTED] is he still a special government employee?

Mr. Rybicki. He is not.

Mr. Somers. Does Director Wray have special any --

Mr. Rybicki. He does not currently.

Mr. Brebbia. How many times did you email Professor [REDACTED] ?

Mr. Rybicki. I don't know, a handful probably. He would email

me sometimes when he was travelling to D.C. to let me know he would be in town, things of that nature.

Mr. Brebbia. How many times did you send him substantive documents like these talking points?

Mr. Rybicki. I would say it's infrequently. I don't remember this one. I can't remember another one, but I'm just not recalling.

Mr. Brebbia. It was probably less than five?

Mr. Rybicki. Again, I can't recall any as I sit here, but it's not to say it didn't happen, I'm just --

Mr. Brebbia. Okay.

Mr. Rybicki. I should stipulate it did happen once because it is here, just for clarity.

Mr. Parmiter. Earlier, you talked about how you spoke to rank-and-file employees about Director Comey's firing, got a sense of the morale and mood, and your sense was generally that the rank and file had not lost confidence in the Director. Is that correct?

Mr. Rybicki. I think that's generally correct.

Mr. Parmiter. Okay. So earlier, you also said that you had no particular reaction to the Clinton investigation that you could recall. Did you similarly get a sense of the mood with that investigation at all?

Mr. Rybicki. With what investigation?

Mr. Parmiter. With the Clinton investigation when it was opened. Earlier in response to your question you had said that, you know, when you'd heard about the Clinton investigation, you didn't have any

particular reaction to it. Did you hear about it from the rank and file?

Mr. Rybicki. Oh, I'm sorry. I would say I think everyone acknowledged, for instance, as the Director would go out -- Director Comey would go out on field office visits and things of that nature, you know, when you go out to the field. There was, you know, questions would be raised about, you know, how long is it going to take, all of those things. But I don't -- I don't have a way of categorizing generally for the workforce.

Mr. Parmiter. Did you hear anything at all, I mean, you know, scuttlebutt at all about what was going on?

Mr. Rybicki. No. I think -- I think the team did a good job of keeping it compartmented.

Mr. Parmiter. I'm quoting you here as well. At one point you stated, "it became the view of the team that there wasn't enough evidence to bring charges." When you say it became in the view, and I know we went over some of this ground before, but I want to zero in more --

Mr. Rybicki. Certainly.

Mr. Parmiter. -- on whether any one particular voice on the investigative team was more involved or more influential than another.

So I guess my question has two parts. When did it sort of become the view of the team and whether or not there was one particular person who was sort of driving the team towards that view?

Mr. Rybicki. Sure. As to the first part, I don't have a

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particular time, sitting here, that it became the view. Again, each of these briefings, especially at the beginning, tended to be just updates on, you know, what was being found very sort of in the weeds. And so, you know, I would struggle to put an actual time period on, you know, when people thought it's not there. Certainly by the time of the May 2nd email --

Mr. Parmiter. Sure.

Mr. Rybicki. -- because that would have informed the Director's drafting of that. But beyond that, I don't know that I can put a good time on that.

The second part was whether there was one more vocal. No, I don't believe so. Again, it was the updates were typically the lead agent, the lead analyst briefing their particular parts, and then people talking about it. I don't recall one person being vocally in favor or opposed.

At one point, and again, I just don't remember when in the time period this was, I want to say it was closer to July, but I just -- a little fuzzy, Director Comey had asked the lead agent analyst to -- he said he wanted to know from the team whether there was anybody opposed to the action being contemplated, and the word came back no from them that there was not anybody opposed.

Mr. Parmiter. So he asked -- by lead agent and lead analyst, you're referring to Mr. Strzok and Mr. [REDACTED]

Mr. Rybicki. That is correct.

Mr. Parmiter. Okay. So would it be fair to say Peter Strzok

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would provide the most input in those briefings or [REDACTED] or the two of them as a unit?

Mr. Rybicki. They were -- I don't know that that would be fair. They certainly had the lead to start out the briefing, right. We would hear from the case, you know, the lead agent and then the lead analyst, and then the discussion would go surrounding that. So I just -- I don't have a great sense of sort of an equity of time.

Mr. Parmiter. And can you recall whether the Director, in all of those discussions about the statute and about gross negligence, ever personally weighed in on whether or not he thought that the elements had been satisfied?

Mr. Rybicki. I cannot recall that, again, extensive, right, you know -- you know, we even requested from DOJ the list of, you know, prosecutions and, you know, so I recall people digging into that, but I don't recall the Director weighing in that specific instance.

Mr. Parmiter. Okay. When you say you requested prosecutions from DOJ, do you mean the chart that was developed was requested by DOJ? I believe it was one of the earlier exhibits. Is that what you're referring to or something else?

Mr. Rybicki. No, I haven't seen it here today. Oh, not the three chart.

Mr. Parmiter. I believe it was the chart that Mr. Ratcliffe shared with you.

Mr. Rybicki. Sure, yeah. Not the one from exhibit 4. This was another chart that had lists of cases on it.

Mr. Parmiter. Okay. Can you guys provide that chart to the committee?

Mr. Rybicki. I don't know.

Mr. Brower. I don't know what chart you're referring to, so we can get some specificity from you offline.

Mr. Parmiter. That's fine. We can discuss it offline.

Did you discuss the Clinton email investigation, to the best of your recollection, with anyone at DOJ directly?

Mr. Rybicki. Yes.

Mr. Parmiter. Who did you discuss it with?

Mr. Rybicki. [REDACTED] We talked a little bit at length on that. He was probably the most -- George Toscas, again, to talk about getting the cases from him is my recollection. Those are the only ones that are standing out to me right now. I'm just trying to remember who was there at the time to jog my memory.

Mr. Parmiter. I'm looking at another document here. What are we up to, 9? I'm going to mark this as exhibit 9. This is --

[Rybicki Exhibit No. 9

Was marked for identification.]

Mr. Parmiter. Do you recognize this document?

Mr. Rybicki. I don't.

Mr. Parmiter. Okay. What does it appear to be?

Mr. Rybicki. It looks like an email from George Toscas to me on July 6th. It says, "Relevant pages in House materials." It looks like a Congressional Record transcript.

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Mr. Parmiter. Right. Do you recall the discussion that led Mr. Toscas to email this to you?

Mr. Rybicki. I'm not remembering it.

Mr. Parmiter. I would direct your attention in this document to -- I'll give you the Bates stamp, FBI 573, which would be page 1762.

What this is is it's the debate over the original Espionage Act from 1917. Do you believe that Mr. Toscas sent this to you -- or why do you believe Mr. Toscas sent this to you?

Mr. Rybicki. Purely speculating on this one. This would have been after the meeting at the -- with the Attorney General on the -- just doublecheck that date.

Mr. Parmiter. It would have been after the press conference, correct?

Mr. Rybicki. Certainly after the press conference, but I also believe the meeting with the Attorney General the next day, I'm wondering if it was referenced in that meeting.

Mr. Parmiter. So I showed this one to you, exhibit 9, and exhibit 6, the ones involving the talking points. Was there an effort by the Bureau, following the Director's press conference, to essentially put together materials defending its decision not to prosecute Hillary Clinton?

Mr. Rybicki. I think that's right. You know, I don't know if I would say defending it, but, you know, explaining it or, you know, especially in preparation for -- I think the Director testified was it that Thursday? Director Comey was on the Hill in short order before

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House Oversight and Government Reform, so certainly efforts to prepare him for that.

Mr. Parmiter. To prepare him for congressional testimony?

Mr. Rybicki. As an example.

Mr. Parmiter. Okay. Earlier, you mentioned that there was a meeting after the interview, so I guess this would have been, you know, around the same timeframe, but before the press conference, to determine whether this is what the -- whether this is what the Director still wanted to do.

Mr. Rybicki. This is the Secretary Clinton interview?

Mr. Parmiter. The Secretary Clinton interview.

Mr. Rybicki. Yes, sir.

Mr. Parmiter. So what did you mean by that?

Mr. Rybicki. Sure. Once the interview was scheduled, it was determined -- so it was determined that, at the conclusion of the interview, the team would reconvene on a conference call, just given that it was on a weekend, to talk about the results of the interview consistent with what we had talked about with the chairman earlier, and then to talk about whether the July 5th press conference would take place, meaning had something changed again, because it was the view that it could have changed up until after that interview.

Mr. Parmiter. If we can go back and look at exhibit 1 again, which is the May 2nd email. To your knowledge, did an earlier draft of this email contain a reference to a senior government official with whom Secretary Clinton had emailed?

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Mr. Rybicki. A prior version to this one?

Mr. Parmiter. Yes.

Mr. Rybicki. I believe this is the first version that I saw.

Mr. Parmiter. Or a later version to this one, I'm sorry.

Mr. Rybicki. Oh, I'm sorry. I'm sorry, say the question one more time then.

Mr. Parmiter. I want to make sure I have it right. Just a moment.

All right. I'm sorry for the delay.

Mr. Rybicki. That's okay.

Mr. Parmiter. So I'm going to show you what we're now marking as exhibit 10.

[Rybicki Exhibit No. 10

Was marked for identification.]

Mr. Parmiter. I'll give you a minute to look it over.

Mr. Rybicki. Sure.

Okay.

Mr. Parmiter. Do you recognize that document?

Mr. Rybicki. I do. It's a version of his public statement, Director Comey's public statement.

Mr. Parmiter. And who is -- this is an email to you from who?

Mr. Rybicki. Bill Priestap, the assistant director of Counterintelligence.

Mr. Parmiter. And what is Mr. Priestap saying to you in this email?

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Mr. Rybicki. He has -- it looks like I had circulated a version of the public statement on June 30. He, Mr. Priestap, says it looks good and had some additional comments.

Mr. Parmiter. And what were his comments?

Mr. Rybicki. He said he agreed with the removal of the mention of the President on page 5. He said, if necessary, the Director can always name the "senior government official," in quotes, with whom Secretary Clinton communicated at a later date. He also said that the word "that," in quotes, is used four times in the below sentence. I recommend that the first "that," in quotes, in red below be deleted.

Mr. Parmiter. Okay. So let's focus on the first comment. This statement talks about how Secretary Clinton was emailing with a senior government official while she was in an adversary country, I believe is the -- if you look on -- I'm going to give you the Bates number because there's not a page number -- FBI 271, the large paragraph in the middle. Toward the end of that paragraph, "that use included an email exchange with another senior government official while Secretary Clinton was in the territory of such an adversary."

Mr. Rybicki. Yes.

Mr. Parmiter. So it would be fair to -- before the edit, this sentence said, "that use included an email exchange with the President while Secretary Clinton was in the territory of such an adversary." Would that be accurate to say?

Mr. Rybicki. That's correct.

Mr. Parmiter. Okay. To your knowledge, did that line make it

into the final version of the draft statement?

Mr. Rybicki. The senior government official?

Mr. Parmiter. Yes.

Mr. Rybicki. I don't remember.

Mr. Parmiter. I think the answer to that is no.

Mr. Rybicki. Okay. Meaning the senior government official line was stripped out entirely?

Mr. Parmiter. Correct.

Mr. Breitenbach. Do you have any personal thoughts on why that change may have been suggested?

Mr. Rybicki. I don't. I have a recollection -- I have a recollection of the particular email that's at question here. I have -- I can't remember possibly all the reasons, but I think I recall one reason would just be for security to not name the President in here, but I don't -- I can't say with full clarity.

Mr. Breitenbach. Would you --

Mr. Rybicki. Or why it was stripped out at the end if it was.

Mr. Breitenbach. So then do you have any opinion on the accuracy of the statement? When it said "the President," was that, in fact, accurate that Secretary Clinton had emailed the President while she was located in an adversary country?

Mr. Rybicki. May I consult with counsel 1 second just for classification?

[Discussion off the record.]

Mr. Rybicki. Thank you. Do you mind just repeating your

question one more time?

Mr. Breitenbach. Sure. Do you have any thoughts on the accuracy of the statement in the original statement that was modified to "senior government official" and then later on removed completely as to whether Secretary Clinton was, in fact, emailing the President in an adversary country?

Mr. Rybicki. Sure. My recollection is, yes, it was accurate. The reason I hesitate is because by the way he was identified in the email. It wasn't readily apparent, but I think my recollection is that people were reasonably certain.

Mr. Breitenbach. Okay.

Mr. Rybicki. And again, I believe, you know, if Bill Priestap had put in here, you know, the mention of the President, then that's probably accurate.

Mr. Breitenbach. Are you aware whether that email was a classified email?

Mr. Rybicki. I don't remember.

Mr. Breitenbach. Are you aware whether emails to the President generally from the Secretary of State would be considered sensitive emails?

Mr. Rybicki. I don't know.

Mr. Parmiter. What was the code name for the Clinton investigation?

Mr. Rybicki. Midyear exam.

Mr. Parmiter. What was the significance of that code name?

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Mr. Rybicki. I don't know.

Mr. Parmiter. Does the FBI usually give each case a code name?

Mr. Rybicki. Yes.

Mr. Parmiter. It's not specifically a practice with counterintelligence investigations?

Mr. Rybicki. No.

Mr. Parmiter. Okay. Did the fact that -- there's been a lot of talk about, you know, and a lot of reports about the FBI desiring to conclude the case well in advance of the elections. Is that significant? You know, is that what midyear comes from?

Mr. Rybicki. I don't know how it was generated.

Mr. Parmiter. Who was present in the room, to your knowledge, when Hillary Clinton was interviewed?

Mr. Rybicki. I know that Pete Strzok was there. I know there was another FBI agent, who I do not recall, and I believe there were at least one DOJ -- there was at least one DOJ attorney present.

Mr. Parmiter. Do you know who that was?

Mr. Rybicki. I have a vague recollection, but I don't want to -- speculation. I just -- I can't remember.

Mr. Parmiter. Was it Mr. Toscas?

Mr. Rybicki. That's not the name I was thinking of.

Mr. Parmiter. Was it Mr. Laufman?

Mr. Rybicki. That's the name I was thinking of, but again, I have a low confidence on that memory.

Mr. Parmiter. Okay. Was Mr. Strzok the interviewing agent?

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Mr. Rybicki. He was -- I know that he was there to interview her. I don't know how they designate lead or -- that's beyond my --

Mr. Parmiter. But he was the lead agent for the briefing team?

Mr. Rybicki. Certainly.

Mr. Parmiter. Okay.

Mr. Rybicki. Correct.

Mr. Parmiter. So, I mean, given a case of this magnitude, would it make sense that, you know, someone like Strzok would be the interviewing agent in that interview?

Mr. Rybicki. That would be beyond the scope of what I would know. I mean, I could envision scenarios where that wouldn't be true, so I just don't know.

Mr. Parmiter. At any point, were you in that room?

Mr. Rybicki. No.

Mr. Parmiter. Okay. Who approved the plan of who would be in the room?

Mr. Rybicki. I don't know the answer to that. I remember -- I remember hearing who was at the interview. I don't remember whether that was before or after the interview.

Mr. Parmiter. Okay. The committee has been given -- or has seen 302s that say that -- where Peter Strzok writes that Huma Abedin and Cheryl Mills had no knowledge of the existence of the Clinton private server.

Who else interviewed those two folks?

Mr. Rybicki. I do not know.

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Mr. Parmiter. Okay. Were either of them interviewed more than once?

Mr. Rybicki. If I knew, I don't recall.

Mr. Parmiter. Okay. We talked a little bit earlier about how WFO was involved in the Clinton email investigation at least initially --

Mr. Rybicki. Yes, sir.

Mr. Parmiter. -- before it became either a headquarters special or a SIM or both. So who is currently running counterintelligence investigations at WFO?

Mr. Rybicki. I just want to be careful on the lead-in to that question. So what I was referencing was that WFO bodies including agents, analysts, and others were part of the midyear team. So if I left the impression that it started at WFO -- I don't know where it started, so just --

Mr. Parmiter. Okay. Fair enough.

Mr. Rybicki. -- for clarity. I don't -- there is a special agent in charge over counterintelligence at WFO. I don't recall his or her name at this time.

Mr. Parmiter. Okay. Do you know whether Mr. Strzok worked at WFO at any point?

Mr. Rybicki. I believe he did.

Mr. Parmiter. Okay. Did he work for Mr. McCabe at WFO?

Mr. Rybicki. I don't remember what the time period was that -- it's possible. I just don't remember the overlapping times.

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Mr. McCabe, I've known Mr. McCabe since I came to the FBI. He was the executive assistant director over National Security Branch, then he went to WFO as the assistant director in charge, and then associate Deputy Director, now Deputy Director.

Mr. Parmiter. Okay. Who is Randall Coleman?

Mr. Rybicki. I know him as Randy. He was the assistant director of Counterintelligence at headquarters, so the predecessor to Bill Priestap.

Mr. Parmiter. Okay. And what is his occupation now?

Mr. Rybicki. He retired from the Bureau. He's in the private sector.

Mr. Parmiter. And as head of CD, what was Mr. Coleman's role during -- was he the head of CD during the entire Clinton investigation?

Mr. Rybicki. No. I can't remember when the switch -- when he retired. I don't remember how far in.

Mr. Parmiter. Did he retire directly from CD or did he have a different role at the FBI following that?

Mr. Rybicki. He was -- yes. Actually, now that I remember, he went from being the assistant director of CD to the executive assistant director of CCRSB, which is our Criminal, Cyber, and Response Branch.

Mr. Ratcliffe. Just a couple of questions, Mr. Rybicki.

Mr. Rybicki. Yes, sir.

Mr. Ratcliffe. I just want to ask about the meeting on the tarmac on June 27, 2016, between former Attorney General Loretta Lynch and former President Bill Clinton.

So June 27th, 2016, that was 5 days before Secretary Clinton was actually interviewed by the FBI, correct?

Mr. Rybicki. Yes.

Mr. Ratcliffe. Okay. And it was 8 days. I counted.

Mr. Rybicki. Sorry. I trust you on the math.

Mr. Ratcliffe. Thirty days has September --

Mr. Rybicki. Yes.

Mr. Ratcliffe. It was also 8 days before Director Comey's press event on July the 5th.

Mr. Rybicki. Yes.

Mr. Ratcliffe. Okay. What do you recall the FBI -- do you recall a reaction by the FBI Director when that meeting became public?

Mr. Rybicki. I recall -- so I was notified on -- again, I don't remember the dates. I was notified by the Deputy Attorney General's office on that Tuesday. Was that the same day?

Mr. Ratcliffe. Tuesday after the meeting or before?

Mr. Rybicki. Tuesday the week of, so I don't know if that's the same day or the day after. Again, I don't have a calendar, but I remember it being a Tuesday for some reason, by the Deputy Attorney General's office about the fact of the meeting.

Mr. Ratcliffe. Do you recall if you were notified that it was a meeting that was going to take place or a meeting that had taken place?

Mr. Rybicki. It was a meeting that had taken place. It was [REDACTED] from the Office of the Deputy Attorney General that called me.

Mr. Ratcliffe. So you weren't aware of it before that

notification?

Mr. Rybicki. No.

Mr. Ratcliffe. Okay. Do you know if the FBI Director -- former FBI Director Comey was?

Mr. Rybicki. I don't want to speak for him. I remember calling him after getting that notification.

Mr. Ratcliffe. That's what I'm looking for, any reaction, like if he knew it had taken place, was going to take place.

Mr. Rybicki. No. My recollection, Congressman, is that I was the first to tell him, but --

Mr. Ratcliffe. Do you recall any reaction from him?

Mr. Rybicki. I don't recall a general reaction. When [REDACTED] called me, it was to sort of tell me about it, but also just to -- you know, ask as a chief of staff, what would you do in a circumstance like this, and I recommended one course of action.

Mr. Ratcliffe. Okay. What did you recommend?

Mr. Rybicki. I said if it was me and that situation arose, that I would want my principal to document in some way who was present and what was talked about.

Mr. Ratcliffe. Well, was there any discussion about, this meeting is taking place 5 days before we're about to interview the subject or target of this investigation and that's either a good thing, a bad thing, or a nonevent?

Mr. Rybicki. I don't remember that, Congressman. I don't remember talking about that.

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Mr. Ratcliffe. Did anyone on the team talk about that?

Mr. Rybicki. Not to my recollection. It's possible, but I don't --

Mr. Ratcliffe. So subsequent to that, the testimony under oath of Loretta Lynch was she understood that she -- it cast a shadow over the Department, but then she didn't recuse herself. She removed herself but didn't recuse herself. I've dealt with recusal issues before, and I remember at the time and still think that it struck me as bizarre. How did it strike you?

Mr. Rybicki. So we were -- before Attorney General Lynch made that announcement, her staff -- there were intervening conversations. I don't know that it's relevant here, but the FBI agents protect the Attorney General, and, you know, from that -- sometime between that Tuesday and that Friday, I don't remember the date, there was a lot of concern because stories were appearing in the media that our agents had prevented people from taking pictures and things of that nature, so I was calling into her staff to try to figure out what was happening there.

But aside from that, her staff contacted us to tell us that she would be making such an, I'll call it a removal, sir.

Mr. Ratcliffe. Am I characterizing that accurately?

Mr. Rybicki. Yes, I think that's accurate. What they basically told us is that they would be accepting the -- they read the statement, and I think they originally said they would be accepting the recommendation of the FBI Director as to the case, and then it was added

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"FBI Director and career prosecutors" I think was the language that was used.

Mr. Ratcliffe. But no recusal?

Mr. Rybicki. I did not understand it to be a recusal. And, in fact, the meeting after the day after the Director's announcement would point to a nonrecusal because she made the decision.

Mr. Ratcliffe. So was there a discussion between you and Director Comey or anyone on the midyear investigative team about whether or not a recusal would have been appropriate?

Mr. Rybicki. I don't recall one, sir.

Mr. Ratcliffe. Did you think one was?

Mr. Rybicki. I don't know that I thought it was within our purview.

Mr. Ratcliffe. Okay. Do you know if Director Comey had any conversations with the Attorney General about the meeting?

Mr. Rybicki. Not to my knowledge.

Mr. Ratcliffe. Okay. At that point in time, we've had this discussion about the fact that Hillary Clinton's deposition was scheduled for just 5 days after that tarmac meeting and that press event was scheduled subject to what she said, I guess, at that interview for 3 days after that. Do you recall how far in advance that press event was scheduled?

Mr. Rybicki. Which press event, Congressman, I'm sorry?

Mr. Ratcliffe. The July 5th -- Director Comey's July 5th, 2016, press conference.

Mr. Rybicki. The Attorney General, nor the Department of Justice were aware of the press conference.

Mr. Ratcliffe. No, I understand that. I'm just wondering whether or not it was scheduled already at the time of the tarmac meeting.

Mr. Rybicki. I don't know the answer to that, sir. I think we had definitely picked that date at some point.

Mr. Ratcliffe. Do you recall how far out it was, just generally? In other words, did we pick it out a month in advance or 2 weeks in advance or 3 days before?

Mr. Rybicki. Yes, sir. I don't recall. I'm sure that emails might illuminate that. Sitting here, I don't remember.

Mr. Ratcliffe. Okay.

Mr. Rybicki. If I could add, you know, I don't know when the interview with Secretary Clinton was set, so that might have factored into the date selection.

Mr. Ratcliffe. You weren't aware of that ahead of time?

Mr. Rybicki. Oh, I'm sorry. I was aware that it -- I was aware that it was going to happen. I'm not aware of the date it was set to happen. Let me rephrase that.

Mr. Ratcliffe. It took place on --

Mr. Rybicki. I knew it was going to happen.

Mr. Ratcliffe. Okay.

Mr. Rybicki. When the date was picked, I don't know.

Mr. Ratcliffe. But you had made reference to the fact that it

took place on July the 2nd of 2016, and you made some reference earlier to the fact that, and in emails in addition to your testimony, that it had been planned for some time.

Mr. Rybicki. Yes.

Mr. Ratcliffe. Okay. You mentioned before a 302. I don't know if anything's been admitted, and I'm happy to do it, but Secretary Clinton -- there's a 302 of her July 2nd interview, correct?

Mr. Rybicki. I believe so, sir. I think Mr. Parmiter referenced the 302, yes.

Mr. Ratcliffe. You know what a 302 is?

Mr. Rybicki. I do. It's a summary of an interview, FBI summary of an interview.

Mr. Ratcliffe. Of the areas that they cover or probe with the witness?

Mr. Rybicki. Yes.

Mr. Ratcliffe. Okay. And in this case, have you ever reviewed Hillary Clinton's 302?

Mr. Rybicki. It's possible that I saw parts of it. I don't recall reading it in its entirety.

Mr. Ratcliffe. Okay. Any reason to think that it's not complete?

Mr. Rybicki. I have no reason to think it is incomplete.

Mr. Ratcliffe. Okay. Well, I guess what I'm getting at is I've been through this, and are there areas, to your knowledge, whole areas of inquiry that were left out?

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Mr. Rybicki. Not to my knowledge.

Mr. Ratcliffe. Okay. I notice in this 302 there's no reference of an inquiry to Secretary Clinton about the meeting that her husband had with the Attorney General just a few days before, and that struck me as odd.

Do you have any explanation for why she wouldn't have been asked about the contents of the meeting between her husband and the Attorney General?

Mr. Rybicki. I don't, sir. That would be well outside the scope of my nonagent responsibilities.

Mr. Ratcliffe. Okay. One of the things that I think has been covered is the text from Agent Strzok on August 15th, 2016, that makes reference to just generally the insurance policy. Do you know what I'm referring to?

Mr. Rybicki. I haven't heard it referenced here today.

Mr. Ratcliffe. Oh, you haven't. Okay. I'm sorry.

Mr. Rybicki. Unless I'm not remembering.

Mr. Ratcliffe. Do you generally know what I'm talking about, that there's an email between Lisa Page and Peter Strzok, and the contents of it are: "I want to believe the path you threw out for consideration in Andy's office that there's no way he gets elected, but I'm afraid we can't take that risk. It's like an insurance policy in the unlikely event you die before you're 40."

You've seen that before or seen media reports about that?

Mr. Rybicki. Yes, sir.

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Mr. Ratcliffe. Okay. And the folks identified there, we've talked about Peter Strzok and Lisa Page. There's an Andy mentioned in -- "Andy's office" mentioned in that text. Do you know whether or not that's Andy McCabe?

Mr. Rybicki. I do not.

Mr. Ratcliffe. Okay. Well, his testimony under oath was that it was not him or that he didn't recall the meeting. When did you find out about this text?

Mr. Rybicki. My recollection is when it appeared in the media.

Mr. Ratcliffe. Okay. And so what inquiry has the FBI done to determine who is the Andy in this text?

Mr. Rybicki. I believe that falls under the purview of the inspector general, sir.

Mr. Ratcliffe. Okay. And I get the role of the inspector general, but if there's a text where it's a possibility that there are folks identified within the FBI who may be conspiring or may have conspired against the President of the United States, don't you need to immediately identify who those folks are? And so if there's any question about who the "Andy" is before another email is sent, before another pencil is sharpened, before another witness is interviewed, don't you think that it's incumbent on the FBI to identify specifically who Andy is?

Mr. Rybicki. I believe, sir, the Bureau takes it very seriously, and I believe there's an active investigation by the inspector general into that.

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Mr. Ratcliffe. So it's possible there's an answer to that question, you just don't know who the answer to who Andy is?

Mr. Rybicki. I'm not privy to it, sir.

Mr. Ratcliffe. Okay. Fair enough. Okay. Thanks for indulging me.

Mr. Rybicki. Sure. Thanks, Congressman.

Mr. Somers. And just to be clear, you were not in the meeting where the insurance policy was discussed?

Mr. Rybicki. No.

Mr. Brebbia. Was there another Andy on the team on the investigative team?

Mr. Rybicki. On the midyear team? No. No.

I'm sorry. I know the executive briefing team. I do not know the totality of the full investigative team, just for clarity.

Mr. Somers. Just to go back to the tarmac conversation with the former President and the Attorney General, was any effort made to investigate what the content of that conversation was by the FBI, that you're aware of?

Mr. Rybicki. I'm not aware.

Mr. Somers. Would you be aware of something like that?

Mr. Rybicki. Not necessarily.

Mr. Breitenbach. Consider this the lightning round. I think, you know, considering you're the chief of staff of the FBI, I think you're probably going to be the best person in place to tell us the number of agents and the number of analysts that were involved in the

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Clinton investigation.

Mr. Rybicki. I don't think that's accurate.

Mr. Breitenbach. Why would you say?

Mr. Rybicki. Because the operational chain doesn't record to me, it reports to the deputy.

Mr. Breitenbach. Do you have any idea how many agents and how many analysts?

Mr. Rybicki. Again, I speculated earlier. I remember for some reason I was thinking around [REDACTED] but again, that would be well outside my wheelhouse.

Mr. Breitenbach. Do you know where Lisa Page and Peter Strzok are currently employed inside the FBI?

Mr. Rybicki. Yes.

Mr. Breitenbach. Could you tell us?

Mr. Rybicki. Sure. Ms. Page is back with the Office of General Counsel. Mr. Strzok is in the Human Resources Division.

Mr. Breitenbach. You had referred previously to an MOU when we were speaking about Mr. [REDACTED].

Mr. Rybicki. Yes.

Mr. Breitenbach. Is that something that you can produce to us?

Mr. Rybicki. I could -- we could take it back as a request.

Mr. Breitenbach. Okay. I appreciate it. And then lastly, I'm just looking at a document that indicates the number -- the number of emails that were classified. One of the [REDACTED]

[REDACTED] I think many of us in

this room have clearances.

I'm just wondering, in terms of seeing the final numbers, and you happen to be on one of these emails. In terms of seeing the final numbers, did it shock you to see how many emails were classified that were sent over an unsecure server?

Mr. Rybicki. I don't remember my reaction when I saw them.

Mr. Breitenbach. Do you think there's been any precedent set by having decided not to prosecute Secretary Clinton for sending and receiving classified emails?

Mr. Rybicki. I do not. In subsequent testimony, Director Comey and others have testified that, you know, there could still be severe administrative sanctions for something like that, for people that hold clearances.

[4:52 p.m.]

Mr. Breitenbach. Are you aware of any cases since this decision where classified emails have been sent in an unsecure manner?

Mr. Rybicki. I'm not.

Mr. Breitenbach. Okay.

Mr. Parmiter. Just to follow up on that. Now that you've been in the FBI for three directors -- three directors, correct?

Mr. Rybicki. Including an acting director.

Mr. Parmiter. Okay. Have you seen -- including an acting director. Have you seen anyone prosecuted for any type of mishandling of classified information?

Mr. Rybicki. I can't say. Again, many, many cases that are happening everyday, one not popping into my head right now.

Mr. Parmiter. But as someone whose career has been in, you know, that -- OIPR at DOJ, certainly in the FBI and in a variety of capacities, someone who has always -- would it be fair to say, been around classified information in your professional life, and like the rest of the government employees who have clearances, have it beaten into you on a regular basis that you have to protect this information. Those sorts of cases don't necessarily stick out for you?

Mr. Rybicki. I think they would if one came up.

Mr. Parmiter. Okay. But you have not seen any come up in your tenure at the FBI?

Mr. Rybicki. I've seen cases involving classified information come up -- I'm sorry.

Mr. Parmiter. Mishandling of classified information?

Mr. Rybicki. There are cases that I'm aware of, as I sit here, I don't exactly know what the charges were, but that involve classified information.

Mr. Parmiter. Okay. So you have seen prosecutions for -- involving classified information in your time? I mean, have you ever -- I mean, given all the training that you've been through, have you ever considered what would have happened, had you set up your own personal server at your house, you know, to receive classified emails that you would normally get over, on the high side, over an unclassified system?

Mr. Rybicki. I think it's too speculative to answer.

Mr. Parmiter. Well, I guess what I'm trying to get at here is something a couple of us have tried to get at, which is, what was your reaction when you saw the number of emails that have been sent over an unsecure server? And we just talked a little bit earlier about potentially emails happening in adversary countries. That didn't have any effect on you at all, that you can recall?

Mr. Rybicki. Not that I recall. Again, I'm trusting the judgment of our career officials who are deliberating -- who are presenting the evidence and deliberating it.

Mr. Parmiter. Okay. Would it be fair to say that -- well, you know what SAP information is, right?

Mr. Rybicki. Yes.

Mr. Parmiter. What does that stand for?

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Mr. Rybicki. Special Access Program.

Mr. Parmiter. Does that sometimes involve, you know, things other than information that's pertinent to -- it affects other parts of the intelligence community, certainly not just the FBI. Would that be accurate?

Mr. Rybicki. Yes.

Mr. Parmiter. Such as troop movements, perhaps, at times. I mean, I don't want to get into too much of what that is, but we all know how important it is to protect. So it doesn't surprise you that multiple individuals could have sent and received those emails, including information that's that highly classified and nobody has been held accountable yet, at least in this case?

Mr. Rybicki. Again, you know, in this case, this is where the facts presented themselves and how it was evaluated, so I don't want to speculate.

Mr. Parmiter. Can I ask then -- I mean, I guess for purposes of that specific statute, 793(f), we talked -- you saw a document earlier that talked about how DOJ doesn't want to prosecute that anymore, you know, what's the -- does the FBI essentially not look for that sort of -- is that, I mean, I hate to use the term "dead statute," but is that what that is? If, you know, there's a volume of classified emails sent over unsecure means with gross negligence, is not going to be prosecuted, is that a positive state of affairs?

Mr. Brower. Let me object to that, Counsel. I think that question would deviate from the scope -- is deviating from the scope

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of this investigation and perhaps getting into something that might be ripe for a congressional hearing on DOJ policy. But I don't think that's an appropriate question for this investigation or this witness.

Mr. Parmiter. That's fine. I think we're out of time.

[Recess.]

Ms. Sachsman Grooms. We're going to go back on the record, the time as 5:05.

Mr. Krishnamoorthi. Mr. Rybicki, I hope you're holding up okay in hour 7 here.

Mr. Rybicki. Thank you.

Mr. Krishnamoorthi. Very good. The first question I have is, is it fair to say that your duties are chiefly administrative?

Mr. Rybicki. Right. I don't want to minimize my duties, but I think that's right. Most of my day is ensuring that the Director's --

Mr. Krishnamoorthi. Is your mic on?

Mr. Rybicki. It is. Am I okay? You got me? Most of my job is keeping the trains running for the Director, and there are a lot of administrative duties to that.

Mr. Krishnamoorthi. And can you just walk us through, what do you mean by administrative duties?

Mr. Rybicki. Certainly. A lot of them deal with scheduling and sort of long-range planning, things of that nature. For instance, unlike a lot of chiefs of staff, I typically don't sit in with the Director during the day, unless he needs me to. If the meeting is going about during the day, I frequently will be outside of that doing other

things.

Mr. Krishnamoorthi. Okay. So it's fair to say that your duties are not operational in nature?

Mr. Rybicki. I think that's fair to say, Congressman, in fact, I take great care not to impede on the operational side of the house. That is a very important thing for the FBI, in particular, to know that there's a chain of command and that chain of command is up through the Deputy Director, so we work very, very closely together. But the operational chain of command is through the deputy.

Mr. Krishnamoorthi. And you don't direct the Deputy Director, correct?

Mr. Rybicki. Correct.

Mr. Krishnamoorthi. So it's fair to say you were not involved in directing the Clinton investigation, correct?

Mr. Rybicki. Very fair.

Mr. Krishnamoorthi. You didn't direct it day to day?

Mr. Rybicki. Correct.

Mr. Krishnamoorthi. You didn't direct the strategy?

Mr. Rybicki. Correct.

Mr. Krishnamoorthi. You didn't participate in the investigation itself?

Mr. Rybicki. That is correct.

Mr. Krishnamoorthi. You didn't hire, fire, or appoint agents or investigators as part of that investigation, right?

Mr. Rybicki. That is correct.

Mr. Krishnamoorthi. You didn't really have a meaningful role in the Clinton investigation?

Mr. Rybicki. Correct. A lot of the role, again, was serving -- sitting in these briefings for the Director for situational awareness, serving as a collector at the point for these comments that were coming in on the statement. You know, once the decision was made to make the statement on July 5th, helping to organize that press conference, follow up congressional -- responding to congressional requests, things of that nature.

Mr. Krishnamoorthi. I understand.

Mr. Rybicki. But I think you're absolutely correct, operationally, no.

Mr. Krishnamoorthi. You had a minimal role in the operational aspects of the Hillary Clinton investigation?

Mr. Rybicki. Correct.

Mr. Krishnamoorthi. I think that's all I have, and I'll turn it over to my colleague. Thank you.

Mr. Rybicki. Thank you, Congressman.

Ms. Jackson Lee. Let me make sure I pronounce your name correctly.

Mr. Rybicki. Yes, ma'am. Rybicki.

Ms. Jackson Lee. Rybicki. Mr. Rybicki, thank you for your service to the Nation.

Mr. Rybicki. Thank you.

Ms. Jackson Lee. Mr. Rybicki, there has been a large amount of

speculation on the individual political persuasions of FBI agents. I'd like to ask you about the political affiliations of FBI agents for a moment, but first, let me just determine -- you are the chief of staff?

Mr. Rybicki. Yes, ma'am.

Ms. Jackson Lee. Presently?

Mr. Rybicki. Presently.

Ms. Jackson Lee. What Directors have you worked for?

Mr. Rybicki. I served Director Comey, first as his deputy chief of staff, and then chief of staff. Upon his dismissal, I served as chief of staff to Acting Director McCabe, and presently, serve as the chief of staff to Director Wray.

Ms. Jackson Lee. So that makes a broad statement because you served Mr. Comey, the Acting Director, and now the newly appointed Director.

Mr. Rybicki. Yes, ma'am.

Ms. Jackson Lee. And your position, you continue to assist the Director of the FBI in needs that they have in that position?

Mr. Rybicki. Yes, ma'am.

Ms. Jackson Lee. Are you -- what level are you considered, or are you an appointee or --

Mr. Rybicki. I'm a career SES employee of the FBI.

Ms. Jackson Lee. All right. Thank you. Were you ever an agent?

Mr. Rybicki. I was not.

Ms. Jackson Lee. And your background in education is?

Mr. Rybicki. Yes, ma'am. I received my Bachelor's from George

Washington University, my law degree from the Catholic University of America. I served -- worked on the Judiciary Committee as a research assistant, the House Judiciary Committee after college. Served as a Capitol Police officer for a short time, and have been with the Department of Justice and the FBI since August of 2001 in various capacities.

Ms. Jackson Lee. Thank you. So I'll let you assess yourself. Would you assess yourself as a career professional?

Mr. Rybicki. I hope so, ma'am.

Ms. Jackson Lee. Let me proceed. Are FBI agents allowed to have personal political affiliations?

Mr. Rybicki. Yes, ma'am.

Ms. Jackson Lee. When the FBI staffs a politically sensitive investigation, for example, a public corruption case, does the FBI consider the personal political persuasion of its agents in making those staffing decisions? In other words, is there a litmus test?

Mr. Rybicki. No, ma'am. And the only caveat I have to that is that I'm not involved in those decision because they are on the operational side of the house. But to my knowledge there is no litmus test.

Ms. Jackson Lee. And as you walk through the hallways, just an ordinary day, I know people have coffee talk or lunch talk, just ordinary days, are you listening or hearing to loud discussions on political or party views up and down the hallways of the FBI?

Mr. Rybicki. In my experience, ma'am, no.

Ms. Jackson Lee. In your course of your work, do you come upon discussions of FBI agents talking about their cases? Is that the normal course of work, cases, where I'm assigned, or what is the next witness I have to go interview?

Mr. Rybicki. Certainly, ma'am, we try to minimize to the need-to-know principle, but agents and analysts and other professionals at the FBI do talk about their cases within the building.

Ms. Jackson Lee. When the Bureau puts together a team of investigators, is the consideration ever, I need a couple of Republicans or I need a couple of Democrats?

Mr. Rybicki. No, ma'am.

Ms. Jackson Lee. Does the FBI ask about the political affiliations of its own agents?

Mr. Rybicki. Not to my knowledge.

Ms. Jackson Lee. Therefore, an added affirmation when an FBI agent wants to come in or make an appointment with the Director, is there litany of questions or litmus test that they have to pass that are outside of the work that they have to go through, religion, political affiliation, last contribution they made. Do they have to go through that to meet with the Director?

Mr. Rybicki. No, ma'am.

Ms. Jackson Lee. Does the FBI -- I asked that question. In fact, it is explicitly forbidden for the FBI to ask about political affiliations for staffing investigations. Is that correct?

Mr. Rybicki. I don't know the -- I don't have that knowledge,

but I do not believe it occurs.

Ms. Jackson Lee. You haven't heard or seen of that?

Mr. Rybicki. Correct.

Ms. Jackson Lee. How do FBI agents know not to let political bias interfere with their political work, meaning work that may involve political investigations?

Mr. Rybicki. I think at its core, it comes down to the ethos of the FBI in terms of just how agents and analysts and other professionals are trained, and are core values, which are instructed -- given to every new employee. Beyond that, there are specific reminders during election season that go out, and FBI employees are also what are known as further restricted employees for certain political activities.

Ms. Jackson Lee. Are FBI agents sworn when they become agents? Do they take an oath?

Mr. Rybicki. Yes, ma'am.

Ms. Jackson Lee. Without putting you on the spot, do you remember some aspects of that oath?

Ms. Jackson Lee. I believe it's the oath that every Federal employee takes. I believe it's the same.

Ms. Jackson Lee. Can you recount any part of it?

Mr. Rybicki. It's swearing allegiance to the Constitution.

Ms. Jackson Lee. And with that in mind, that would govern a lot of the work of the FBI agents as well?

Mr. Rybicki. Yes.

Ms. Jackson Lee. That they are sworn to upholding the

Constitution. Is that correct?

Mr. Rybicki. Yes, ma'am.

Ms. Jackson Lee. When you have a team of agents and prosecutors, is there every one individual who could use his or her political bias to push the investigation in one direction or another? What systems are in place to prevent that?

Mr. Rybicki. Yes, ma'am. I never want to say never, but I do believe systems are in place in the investigations that I've seen. There's always -- again, I hesitate to make broad statements, but agents are usually working with other professionals in the Bureau. There's also approvals that are needed for opening investigations and charging decisions and things of that nature.

Ms. Jackson Lee. So it is your belief that it would be difficult for a particular bias to have the influence over an investigation or move the investigation in one direction or another?

Mr. Rybicki. Ma'am, that's my general belief. Yes.

Ms. Jackson Lee. What specific system are in place that would prevent that?

Mr. Rybicki. Again, I think it's how cases are staffed, the training that individuals receive, as well as approvals that are needed.

Ms. Jackson Lee. And would you also say checks and balances of the fact that they're working as a team and other members of that team would bring that to someone's attention?

Mr. Rybicki. I think that's fair, ma'am.

Ms. Jackson Lee. You feel confident that an agent, based on the oath that they took, and the ethos of the FBI, would relate that they thought there was a problem that there was some bias?

Mr. Rybicki. Yes, ma'am. I happen to have a bias in favor of FBI employees that I think everybody would do that, and I hope that they would.

Ms. Jackson Lee. Let me just pursue this again. So if there was a team of four people, four FBI agents, given a particular assignment, they're all working together. You feel comfortable that of the four, any one of them would be willing to speak up -- well, let me ask the question. Would any one of them be willing to speak up if they thought there was political bias in the investigation?

Mr. Rybicki. I want to be careful about being speculative. But I would hope, given their training and experience, that they would.

Ms. Jackson Lee. Have you heard of any cases where political bias has moved a case one way or the other?

Mr. Rybicki. No, ma'am.

Ms. Jackson Lee. In your time at the FBI and the Justice Department, have you seen evidence of anybody harboring political bias in their investigation of any subject matter?

Mr. Rybicki. May I consult with counsel one moment, please, ma'am. Thank you.

Ms. Jackson Lee. Yes.

[Discussion off the record.]

Mr. Rybicki. Thank you, ma'am.

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Ms. Jackson Lee. Thank you.

Mr. Rybicki. I'm not aware of any.

Ms. Jackson Lee. My question said have you seen evidence of any -- have you heard of any evidence or examples that have come to your attention? You haven't seen, have you heard of any, or are you aware of any in the Department?

Mr. Rybicki. I want to be careful here.

Ms. [REDACTED] May I confer with my client, Congresswoman?

Off the record.

[Discussion off the record.]

Mr. Rybicki. I was channeling my attorney. I was correct in where I was going. I'm aware of allegations that are being investigated, but none that I've seen that have been proven.

Ms. Jackson Lee. Do you have any reason to believe that the vast majority of FBI agents are Democrats or are biased in favor of Democrats?

Mr. Rybicki. I have no reason to believe that.

Ms. Jackson Lee. I almost give you a clean slate. I think these questions and your answers to these questions have been very illuminating. I'd like to ask you about the investigations that we're here to discuss today, and try to get a better understanding in the context of your work. Do you have any reason to believe that there are -- there was political bias that somehow influenced the Clinton investigation?

Mr. Rybicki. I don't believe so, ma'am.

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Ms. Jackson Lee. Do you have any reason to believe that political bias has affected the FBI's investigation of the Trump campaign's ties to Russia?

Mr. Rybicki. I don't believe so, ma'am. Again, I'm aware of -- and I guess this would apply to the earlier one. I'm aware of allegations as such, but I have not seen any.

Ms. Jackson Lee. And to be more targeted, have you seen anyone, FBI agent, walking frustrated through the hallways, or you passed someone who said, the Clinton investigation went the wrong way, or the Trump investigation is going the wrong way? Have you had any frustrating sounds like that as you walked through the hallway?

Mr. Rybicki. I've heard of, anecdotally and myself, of people confused as to how decisions were made, but I can't think of an instance where I've heard of somebody saying it was for a political bias.

Ms. Jackson Lee. So they may have questioned how the decision was made or not made, but you didn't sense that they were suggesting a political bias or political influence of how that decision was made?

Mr. Rybicki. I think that's right, ma'am. And, again, I want to be careful with the allegations of which I'm aware that have not been resolved yet. And so having that in mind, I don't believe that people believe that the ultimate decisions were politically motivated.

Ms. Jackson Lee. Do you have any reason to believe that -- I think I've raised that one. Let me frame it up. We're now currently, obviously, in the midst of the President's -- present President's campaign ties to Russia, so it's active and current. So let me ask

the question I can. Since it's active and current, it is ongoing, it might be more tense. Do you see any of that sort of atmosphere being influenced or impacted by politics since it is ongoing, and that means the press is around, it's a little bit more ripe than the Clinton investigation?

Mr. Schools. I'd like to talk you out of that question if I could. We try to avoid questions that relate to ongoing investigations as you've just described it. It is ongoing and it has been ongoing with special counsel's purview now for 8 or 9 months. Mr. Rybicki would have had no visibility with that. So I think the scope of this hearing, with respect to Russia, is concerned whether or not there was an inconsistency in the way the Russia investigation was or was not announced versus the Clinton investigation. If we could confine to that, that would be very helpful.

Ms. Jackson Lee. I certainly will. Let me try and steer the question again in a different manner, and I appreciate the comment. I'll go back to the hallway again. And as different investigations are going on, Russia, is there any hallway talk or any suggestion of political bias that you've heard?

Mr. Rybicki. I don't believe so, ma'am. I just -- it's hard to recount every conversation, and people in the FBI have no shortage of opinions. But I don't -- I can't think of a specific instance that somebody has alleged a political bias.

Ms. Jackson Lee. Thank you. Have you let your personal political views cloud your judgment in your role at the DOJ or at the

FBI?

Mr. Rybicki. No, ma'am.

Ms. Jackson Lee. And, again, let me state for the record, you have -- would you state for the record how many Directors you've worked for?

Mr. Rybicki. Three Directors, ma'am.

Ms. Jackson Lee. Thank you. We know that Jim Comey, Rod Rosenstein, and Robert Mueller are all Republicans. Is there any reason to believe that Jim Comey's political affiliation affected the way that he investigated Secretary Clinton's email server?

Mr. Rybicki. I saw no evidence of that, ma'am.

Ms. Jackson Lee. Did you view Director Comey as a diligent Director?

Mr. Rybicki. Yes, ma'am.

Ms. Jackson Lee. In the course of your interaction with Director Comey, in particular, besides the human interaction of good fun, did you see him in a businesslike manner in dealing with his FBI agents or his employees?

Mr. Rybicki. Yes, ma'am.

Ms. Jackson Lee. In the course of working for Director Comey, would you say that his commitment was to the oath and that his work was to uphold the Constitution?

Mr. Rybicki. Absolutely, ma'am.

Ms. Jackson Lee. Do you believe that there's any reason to believe that Robert Mueller's political affiliation will prevent a

thorough and fair investigation of the Trump campaign's ties with Russia?

Mr. Schools. The subject matter of that question is relating to an ongoing investigation, and I think outside the scope.

Ms. Jackson Lee. You've been very nice. Let me see if I can go off on a different point and not have -- having worked for three Directors, I think you have a good basis of oversight. Is a sense of orderliness in the FBI committed to their ultimate mission? I would say partly the security of this Nation?

Mr. Rybicki. Yes, ma'am. I testified earlier today in response to a similar question after the firing of Director Comey. The core mission of the FBI to protect the American people and to uphold the Constitution went on without missing a beat the day of the firing and ever since. Other things were impacted, but the safety and security of the Nation was not impacted.

Ms. Jackson Lee. I think sometimes when the focus is on Washington, there is a lack of understanding that FBI agents are across the Nation.

Mr. Rybicki. Yes, ma'am.

Ms. Jackson Lee. In various offices, the SAC, the leadership and then the FBI agents. Is that correct?

Mr. Rybicki. Yes, ma'am.

Ms. Jackson Lee. Do you believe that those various offices continue to work on whatever investigations they were, and did you get a sense that there was any political uproar, Republican or Democratic

bias, as the -- during whatever was occurring here, but did -- did anything come from out in the field that there was a political, in quotes, upheaval, that impacted their work out in the field.

Mr. Rybicki. Ma'am, I'm certainly aware of various press reports, but my experience is that, you know, the FBI is the field and the field continued unimpeded in their day-to-day work.

Ms. Jackson Lee. Do you feel now that the FBI continues on with their investigations no matter what category they are in an unbiased manner?

Mr. Rybicki. Yes, ma'am. I have -- Director Wray asked me to stay on as his chief of staff. I have been supremely impressed by his independence and his commitment to our core values.

Ms. Jackson Lee. And the pressures of the outside political commentary tied to different investigations, any of that -- do you see any of that intruding into the office of management or hallways dealing with what FBI agents are doing?

Mr. Rybicki. I have not, ma'am.

Ms. Jackson Lee. Do you have any? Thank you. I may come back again.

Mr. Hiller. Sure. How are you holding up?

Mr. Rybicki. I'm okay.

Mr. Hiller. True Pundit is a website media aggregator, it does a little bit of its own reporting. It went online on June 9th, 2016. Have you ever heard of True Pundit?

Mr. Rybicki. I have.

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Mr. Hiller. True Pundit has in the past claimed to have, their words, unique insight into FBI operations. Now, one of their first articles on June 12th, 2016, claims, quote, "True Pundit has folks who work for the FBI and other agencies on staff. We are not your unusual conglomerate of media has-beens or 'never weres.'" "

Are you aware of any current or former employee of the FBI, quote, "on staff," at True Pundit?

Mr. Rybicki. I would hope not. No, that I'm aware.

[Rybicki Exhibit No. 11

Was marked for identification.]

Mr. Hiller. Thank you. I want to pass out exhibit 11. I should stop doing this like I'm dealing cards. So this is an email dated October 24th, 2016. It's initially from Deputy Director McCabe, later on you're copied on some of the Director's responses here. The initial email is forwarding an article titled, quote, "FBI director lobbied against criminal charges for Hillary after Clinton insiders paid his wife \$700,000."

Without asking you to comment on the veracity of the article, are you familiar with this article?

Mr. Rybicki. Yes.

Mr. Hiller. In his forwarding of the email, Deputy -- this is on page 3 of the handout, Deputy Director McCabe says to Director Comey, and to you, "FYI, heavyweight source." Do you know who Mr. McCabe was referencing as a quote, "heavyweight source."

Mr. Rybicki. I took it to be a reference to Mr. Giacalone, who

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served as the EAD for national security.

Mr. Hiller. Okay. Why -- what leads you to believe that he's the heavyweight source?

Mr. Rybicki. He often joked about his weight, and that's -- I remember reading it that way when I got it.

Mr. Hiller. So you read this to believe that he, Mr. McCabe thought that he may be the source referred to in this article?

Mr. Rybicki. He's referenced -- when I read that, and I saw him in there, I think he was commenting on Mr. Giacalone in there.

Mr. Hiller. Okay.

Mr. Rybicki. I don't -- I don't know if there's another source, but I just remember him being, Giacalone being referenced in there. Does that make sense?

Mr. Hiller. It does. So just above that on the page, Director Comey says, quote, "This still reads to me like someone not involved in the investigation at all, maybe somebody who heard rumors inaccurate about why John left. There is no way John would say he left because of the investigation, both because he agreed with the way we were handling it, and because so many of us know he was -- redacted. This strikes me as lower level folks who admire John, which is fine, because I do, telling yarns."

What did you understand Director Comey's response there to mean?

Mr. Rybicki. I don't remember having a reaction to it.

Mr. Hiller. Did you understand it to mean that the Director believed the source of this article, whomever they are claiming is

leaking within the FBI, in fact, comes from within the FBI, even if they are lower level people?

Mr. Rybicki. I think that's a fair read, I just don't remember having a reaction to it then or now.

Mr. Hiller. Okay. At the time, did you believe, based on this article or any other that you may have read, did you believe that somebody within the FBI, perhaps not somebody involved with the Clinton investigation, as the Director seems to suggest here, but somebody within the FBI was talking to media outlets like True Pundit about the Clinton investigation?

Mr. Rybicki. I don't remember having that reaction here. Unfortunately, we -- I've been dealing with a number of leaks and other matters like that, so I don't -- again, I don't remember having a specific reaction to this, but concerns generally about people speaking to the media.

Mr. Hiller. People speaking to the media about the Clinton investigation?

Mr. Rybicki. Not specific to it, generally.

Mr. Hiller. Okay. Are those individuals who are involved in the Clinton investigation?

Mr. Rybicki. The concern that there was?

Mr. Hiller. Yes.

Mr. Rybicki. I don't know, would be the short answer. Part of the issue is trying to find out who might be speaking to the media.

Mr. Hiller. But you are handling multiple cases of that nature?

Mr. Rybicki. I am not handling it, but referrals have been made.

Mr. Hiller. To whom?

Mr. Rybicki. Both administrative inquiries through our internal processes, and also through the inspector general.

Mr. Hiller. Do any of those referrals relate to individuals who actually work on the Clinton investigation?

Mr. Rybicki. I don't know if I -- can I consult?

Mr. Hiller. Please.

[Discussion off the record.]

Mr. Rybicki. Thank you.

Mr. Hiller. Of course.

Mr. Rybicki. Would you remind one more time so counsel can hear it as well?

Mr. Hiller. Certainly. I hope I get it the same. In the referrals that you have been handling, do any of those referrals relate to individuals who, in fact, worked on the Clinton investigation?

Mr. Schools. I think that's a little more specific.

Mr. Hiller. Sorry. Referrals for unauthorized disclosures of information. Does that narrow it?

Mr. Schools. No, I'm not concerned about the scope of the -- I'm concerned about your tying it into people with the midyear investigation, so that would effectively be disclosing at a fairly small universe of information -- of investigators. Some subset of them may be under some sort of investigation, and that's something we would never want to confirm or deny.

Mr. Hiller. So one concern that we've expressed in this interview and others is that the potential for leaks played into the Director's decision to release the October letter. And I believe this would go directly to that.

Mr. Schools. I think that question is a fair question and he's been asked that and answered that question about whether the potential for leaks played into the decision. I think the existence or lack thereof of pending investigations into leaks regarding a small subset of people is -- doesn't really illuminate that point, and then gets into matters that we would never want to confirm or deny.

Mr. Hiller. Yeah. I think we're talking about -- not just the small subset on the executive briefing team, but in fact even folks in the field, folks at the New York field office. These are all right there -- we discussed earlier, there's a report, allegedly, from people who were in the room at the October 7th meeting, who suggest that the fact that leaks would certainly come out in the near future played a role in that. There's some dispute in your recollection of things, and I'd like to get some clarification on that.

Mr. Schools. Can you ask your question again?

Mr. Hiller. My question is, any of the referrals that you are relating -- that we have been discussing -- have any of the referrals that you've made about the unauthorized disclosure of information, in fact, dealt with individuals who were working on the Clinton investigation?

Mr. Schools. Yeah, those would be ongoing investigations, and

you're asking him to identify people who may be the subject of that. Look, we'll take it back, but I'm going to ask him not to answer that question. Thanks.

Ms. [REDACTED]. May I consult?

Mr. Hiller. Sure.

[Discussion off the record.]

Mr. Hiller. You have something so add?

Mr. Rybicki. Just for clarity. When you say referrals I made, so I didn't make any referrals, just the Bureau was looking into them --

Mr. Hiller. Certainly.

Mr. Rybicki. -- for sake of clarity.

Mr. Hiller. I think my colleague had a couple of additional questions about this email.

Mr. Graupensperger. So, yeah, my question is concerning Mr. Giacalone. You mentioned that you thought that he might be the heavyweight source mentioned -- referred to in the email. So were there concerns about him funneling information, you know, from folks who were working on the investigation to the press? Is this something that was an issue of conversation at the Bureau?

Mr. Rybicki. To him specifically, I don't know.

Mr. Graupensperger. Or others. I mean, other folks that, you know, you believed were perhaps former Bureau agents getting information from folks who were working on the email investigation and, you know, giving that to the press?

Mr. Rybicki. Sure. Perhaps I can answer it this way without

being too speculative: I think there's always a concern when you're dealing with a leak investigation of either -- like a classified information or unclassified information that otherwise shouldn't be disclosed. That it's not always the person who knows the information or was in the meeting, but it could be one or two hops removed from that for the concern that, I think, you alluded to of former. So there's always that concern when you're dealing with these. I think that's the best I can answer on that.

Mr. Graupensperger. Was there ever a discussion that you were aware of that these sorts of leaks basically were getting to any particular individuals who were talking about them in the media, you know, Rudy Giuliani, others saying that they had information concerning things that were upcoming that would be a bombshell. Is that the sort of thing that was ever discussed, and was it an issue of concern at all?

Mr. Rybicki. Not to my recollection. I'm certainly aware of those rumors from the media and other things, but I don't recall it being discussed.

Mr. Graupensperger. So this email was in October of 2016, October 24th, so it was days before the letter was sent to Congress. So this is -- is it fair to say that this was something on the mind of the folks who made the decision that they needed to send something out publicly on this?

Mr. Rybicki. I don't think so. I think that the -- again, I don't -- I want to be careful not to speak for other individuals. But

the discussion, as I recall it, from the room, dealt with the decision that Director Comey made to allow the FBI investigative team to seek a search warrant, and then his -- what he felt is his obligation to supplement his testimony.

Mr. Graupensperger. Do you know if there were ever any special discussions or meetings that were convened to discuss the issue of leaks or folks on the outside, at least claiming to have inside information on this stuff?

Mr. Rybicki. I'm not -- I'm not aware of specific meetings. Again, I'm aware of an effort due to the perceived number of leaks of, again, either classified or unauthorized information, but I'm not aware of specific meetings.

Mr. Graupensperger. But there were discussions about it as part of other meetings --

Mr. Rybicki. Yes.

Mr. Graupensperger. -- at the time in late October?

Mr. Rybicki. The time period I'm a little fuzzy on when that effort really began, but it was definitely near that. I just can't remember specifics.

Mr. Graupensperger. Near that. Thanks very much.

Mr. Rybicki. Sure.

Mr. Hiller. So stepping back on the timeline a little bit.

Mr. Rybicki. Sure.

Mr. Hiller. On June 15th, 2016, it's about 96 hours after True Pundit goes live, it publishes the first part of what it billed at the

time as a multipart exclusive on the FBI's investigation into Secretary Clinton's use of a classified server. I can enter them into evidence, but I'd just as soon not.

The first article is titled, quote, "Hillary Clinton and Google created covert server to cloak Benghazi-era emails from law makers, FBI, Part 1."

Did you ever read that article?

Mr. Rybicki. I don't remember the article.

Mr. Hiller. The second article in the series is titled again, quote, "Google built Hillary a secret server. Clinton used Gmail for Benghazi-era emails before they vanished, Part 2."

Did you ever read that article?

Mr. Rybicki. Not to my recollection.

Mr. Hiller. I'll save you the some time. Both of those articles claim to be based on inside information from -- they used to term intelligence sources familiar with the internal workings of the FBI's investigation into Secretary Clinton.

In June of 2016, to your knowledge, did any intelligence sources outside of the FBI, any State and local partners that might have been using at the time, have any information about the Clinton investigation?

Mr. Rybicki. Can you repeat that list one more time. Any --

Mr. Hiller. Any intelligence sources, that's the term used in the article, outside of the FBI, and whatever State and local partners it may have been using at that time, have any information about the

Clinton investigation?

Mr. Rybicki. May I consult 1 second?

Mr. Hiller. Please.

[Discussion off the record.]

Mr. Rybicki. Thank you.

Mr. Hiller. You're welcome.

Mr. Rybicki. The short answer is, yes, there would have been people outside of the FBI and Department of Justice that would have been aware. The example I would offer is, as part of the investigation, emails that were recovered were sent to many, many agencies to review for classification. So I would offer up that as an example of information about the investigation being known outside of FBI and DOJ.

Mr. Hiller. Okay. Back in October -- forward in October, the FBI -- our understanding is that the FBI took possession of Anthony Wiener's laptop on October 2nd. At what point were you made aware that the FBI was in possession of that laptop?

Mr. Rybicki. Sure. My recollection is that it was when the notification came in from the team on the 26th.

Mr. Hiller. At what point was Director Comey made aware?

Mr. Rybicki. Same answer to that.

Mr. Hiller. At what point was anybody in headquarters made aware?

Mr. Rybicki. So I believe -- subsequently, there has been, I believe others were aware at headquarters through that month, and there's some indication that it might have been briefed where various

executives were present, but I know Director Comey, at least, from what I understand, is he believes that he was only made aware of the existence of the emails on the 27th when he was briefed. I think that's the same for me.

Mr. Hiller. Which executives might have been present at those earlier meetings?

Mr. Rybicki. I think it was a -- during the -- we have an all SAC exhibit, I think it's the one I'm thinking of. And so there might have been, again, unknown executives present there.

Mr. Hiller. Okay. Do you know if there was any discussion of obtaining process to access the contents of that laptop at that time earlier in October?

Mr. Rybicki. I don't know the answer to that. I can't recall specifically what might have been mentioned at that time, you know, if it was just the fact of the laptop in that unrelated case, or it had anything to do with emails.

Mr. Hiller. Is it unusual that it would -- that in a case this sensitive involving these particular individuals, is it unusual that it would take 3, 4 weeks for the Director to be notified of a development of this nature?

Mr. Rybicki. I don't know the answer to that. I think, again, not being on the sort of operational side. I don't know what they had to do in order to be ready to do that. So it would be speculative.

Mr. Hiller. Is it your impression that the first time a discussion of obtaining process of some kind to get into this laptop

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took place at FBI Headquarters, was when the Director had that discussion with you on October 27th?

Mr. Rybicki. No, I believe discussions were held before that. I think the meeting on the 27th was the first time the Director weighed -- had the opportunity to weigh in on that.

Mr. Hiller. At that meeting did anyone offer you a reason or rationale as to why it had taken 3 or 4 weeks to get to that point?

Mr. Rybicki. Not that I recall.

Mr. Graupensperger. Can I just interject for a second and ask -- was there ever a sense at the time, or subsequently, that anyone on the outside had learned of the existence of the emails on this laptop before the information had gotten to the Bureau here in D.C.?

Mr. Rybicki. No, I don't have any indication of that. Again, press had certainly have speculated, but I don't have any indication of that.

Mr. Graupensperger. Thank you.

Mr. Hiller. So just to be clear, when Director Comey wrote Congress on October 28th, 26 days after the FBI took possession of the laptop, 2 days before the warrant was issued, neither Director Comey nor you nor anybody else at the FBI had any idea it was actually in the emails that been identified on that laptop?

Mr. Rybicki. I want to be careful not to leave that impression. I think, you know, they took possession in the unrelated case, what needed to be done. And, again, I'll stipulate to the second, I just don't know the actual date that they took possession of it.

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Mr. Hiller. Okay.

Mr. Rybicki. But it was -- they took possession in an unrelated case, and I don't know what work needed to be done to figure out, or when they discovered it might have contained possible back-ups from Ms. Abedin.

Mr. Hiller. So circling back to our earlier conversation. By October 2016 you were aware of True Pundit, and you and Director Comey had reason to believe that some sources, even if they were lower level sources within the FBI, were providing information to True Pundit or perhaps other media outlets. Does that sound about right?

Mr. Rybicki. I think that would be a stretch. I think now you could put that together. I don't know --

Mr. Hiller. You don't know that you knew that at the time?

Mr. Rybicki. That's right.

Mr. Hiller. Even though the Director says lower level sources? This strikes me as lower level sources?

Mr. Rybicki. I think that's right.

Mr. Hiller. On October -- my colleague referenced some of this earlier. On October 25th and 26th, just a couple of days before the Director wrote to us, former Mayor Giuliani was on TV, he suggested that the Trump campaign has, quote, a couple of things up our sleeves that should turn things around. Do you recall him saying that or something like that.

Mr. Rybicki. I'm aware of the media reports.

Mr. Hiller. On October 28th, 2016, in an interview on the Lars

Larson radio program, Mayor Giuliani said he was in contact with, quote, "a few active agents who obviously don't want to identify themselves," and then repeated claims that there was something really big about to happen. Do you recall that statement?

Mr. Rybicki. I don't think I'm aware of that specific one.

Mr. Hiller. Do you recall Rudy Giuliani making comments to the effect that he was talking to active agents within the FBI?

Mr. Rybicki. I think that's fair. That's my recollection generally from the media reports.

Mr. Hiller. Do any of the cases on which you may have made referral, or helped to facilitate a referral, relate to statements made by Mayor Giuliani to that effect?

Mr. Rybicki. I don't --

Mr. Schools. Can we -- once again, you asked about a referral regarding a specific leak that would identify potentially an open investigation or not concerning that specific leak. I'm happy for you to ask him about what concerns he had about leaks and who might have been leaking and all those things, but if we can stay away from talking about what may have been referrals for investigations or what might be active investigations, that would be very helpful.

Mr. Hiller. Okay.

Mr. Schools. Thank you.

Mr. Hiller. Who might have been leaking to Rudy Giuliani?

Mr. Rybicki. I don't know.

Mr. Hiller. Is it possible that sources within the FBI were

providing this information to the Mayor?

Mr. Rybicki. I don't want to speculate on that.

Mr. Hiller. Could it have been done directly or through retired agents?

Mr. Rybicki. Again, I don't want to speculate.

Mr. Hiller. Do you believe that any of these unauthorized disclosures of information came from the New York field office?

Mr. Rybicki. Again, I don't -- I don't think it would be appropriate to speculate.

Mr. Hiller. To your knowledge, what did the New York field office do with Anthony Wiener's laptop between the time they took possession of it on October 2nd and October 3rd when they actually obtained a warrant to go through the device?

Mr. Rybicki. Tell me the dates again.

Mr. Hiller. They took possession of the laptop on October 2nd, October 30th they obtained process to actually access and begin to analyze the emails. What did they do with the device during that 28-day stretch?

Mr. Rybicki. I don't know.

Mr. Hiller. Are you aware of any steps they might have taken to learn what information on their may have been relevant to the Clinton investigation?

Mr. Rybicki. I believe -- so I believe I've since learned -- right, so again, it was initially obtained for the unrelated investigation. I believe they were able to see enough of the

information on the laptop, and this would pan out by the briefing that was given on the 27th. They were able to see enough that would lead them to believe that there were possible emails on there, possible back-ups of emails from Ms. Abedin. And, again, I don't -- technically, I don't know how they did this, but they had reason to believe that at least some of the back-ups were for the period of which there were no emails provided, and by that, meaning the beginning of Secretary Clinton's tenure as Secretary of State.

Mr. Hiller. So at the end of this process, at the October 27th meeting, at subsequent meetings where you're discussing how to notify Congress of the existence of this, all of these leaks were unauthorized disclosures of information, as I have been lectured to call them because they are not technically leaks of classified information. None of these were discussed in deciding how to go public with the fact that you were in possession of these additional emails?

Mr. Rybicki. I don't recall that specific, I mean, again, it's possible, but it definitely was not the driving force. Again, my recollection is that it was Director Comey's sense of his obligation to supplement the testimony. Now, there's a risk that -- I would zero in on that and you know missed other, you know, reasons for it, but I'm not recalling it.

Mr. Hiller. So it could be that some part of the decision to send out that October 28th letter was based on leaks?

Mr. Rybicki. I don't want to speculate because I don't know what Director Comey was thinking, I just remember what I believed his

reasoning to be.

Mr. Hiller. Are you familiar with Director Comey's testimony before the Senate Intelligence Committee on June 8th, 2017?

Mr. Rybicki. After the firing, correct? Yes. Generally.

Mr. Hiller. Right. And did you generally find that Director Comey's descriptions of events in his written and then his oral testimony in front of the Senate Intelligence Committee were consistent with the contemporaneous descriptions that he shared with you at the times of those events?

Ms. [REDACTED] May I consult?

[5:56 p.m.]

Mr. Rybicki. Thank you. I'm afraid it just might be too broad for me to answer because -- so maybe there's a more specific way. I'm just afraid, you know, I might have missed parts of it or --

Mr. Hiller. Sure. Let me see if I can -- do you believe that Director Comey accurately testified in front of the Senate Intelligence Committee about his interactions with President Trump to the best of his recollection and yours?

Mr. Schools. We have a scope objection there.

Ms. Sachsman Grooms. So a fair amount of what Director Comey testified about at that hearing is going to end up being relevant to us. For one, he testified extensively about things that we've discussed already today.

Mr. Somers. Can we go off the record with these comments?

Ms. Sachsman Grooms. Well, no.

Mr. Somers. Is that your explanation of what he testified to before that might be outside the scope?

Ms. Sachsman Grooms. I'm talking. What do you mean?

Mr. Somers. I'm just asking if we can go off the record.

Ms. Sachsman Grooms. No. I want to have a scope conversation on the record. Is there a problem with that?

Mr. Somers. It sounds like you're about to say what Mr. Comey said, and it could potentially be outside the scope. You just said you're going to lead into what Mr. Comey said about things that are outside the scope.

Ms. Sachsman Grooms. No.

Mr. Somers. All right.

Ms. Sachsman Grooms. Can I just explain? Thanks. Okay.

So one of the topics that he testified about was the topic at issue primarily today, right, which is Secretary Clinton's and -- the investigation of Secretary Clinton's emails. He testified about the October letter, right, and the decisions around that. So those were all well within the things that he testified about.

Secondarily, Comey's credibility is at issue in the fundamental part of this investigation. And then I can take it a step further. One of the allegations surrounding Comey's firing was that he was fired based on his actions related to the Clinton investigation.

And his credibility around his conversations with the President goes to explain further about, you know, the reasons around whether he was, in fact, fired based on those actions related to the Clinton investigation.

So I think we're in scope. We only have a couple questions, and so I think we want to ask some generalized questions about it and stick with that.

Mr. Schools. If you would like to ask him questions about Director Comey's former testimony that relate to matters that Mr. Rybicki has testified about here already today, which I think would clearly be within scope, I'm happy for you to do that.

I think the credibility argument is too slippery of a slope and causes us to get into a situation where you're asking us to confirm

the accuracy of communications that Director Comey may have had with the President, which invokes potential privilege issues. And we've not -- we're not authorized to provide any information today regarding those communications, so we just can't answer those questions.

Ms. Sachsman Grooms. We're not asking to tell us what the President told Comey, and he obviously wasn't part of those communications, in any case. What we're asking is for him to tell us whether, in contemporaneous time period, Mr. Comey shared information with him that supports Comey's credibility on these points.

Mr. Schools. There was --

Ms. Sachsman Grooms. And so there's no executive privilege issue with that. And, frankly, we asked the same question during the previous interview and we were able to ask it and got an answer.

Mr. Schools. Previous interview with?

Ms. Sachsman Grooms. With Mr. McCabe.

Mr. Schools. I don't think -- I think we did instruct him not to answer those questions for the same reason, is my recollection. Look, we understood this hearing was about the July 5 decision, the October 28 decision, and comparative questions about why Mr. Comey publicly announced Clinton and didn't publicly announce Russia.

The events you're asking about now occurred months after all of that occurred, and we just don't think it's within the scope. And I'm going to ask him not to answer those questions.

Ms. Sachsman Grooms. Did you talk to Mr. Comey before that testimony?

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. After he had left the FBI?

Mr. Rybicki. Yes.

Ms. Sachsman Grooms. And what did you talk to him about?

Mr. Rybicki. So after Director Comey was dismissed, part of the powering down, if you will, I was asked to, you know, get his personal effects to him, things of that nature. So there were communications between myself and Director Comey.

There were -- may I consult once again?

[Discussion off the record.]

Mr. Rybicki. Thanks again. So, again, we did talk about, after he was dismissed, various administrative things. He also did talk to Director Comey in advance of his hearing. No topics, to my recollection, that related to the midyear exam investigation.

Ms. Sachsman Grooms. I'm sorry. You said he did. You mean, you did?

Mr. Rybicki. Say that -- I'm sorry.

Ms. Sachsman Grooms. I'm sorry. I think in your sentence you said he talked to Director Comey. Do you mean you spoke to Director Comey?

Mr. Rybicki. Sorry. It's been a long day. I spoke to Director Comey. Speaking in the third person now. Sorry. I spoke to Director Comey in advance of his hearing.

Ms. Sachsman Grooms. Okay. Not about the midyear exam issue?

Mr. Rybicki. Investigation, correct.

Ms. Sachsman Grooms. Okay. Did you help prep him for that testimony?

Mr. Rybicki. I -- he had requested certain information from the FBI that I helped facilitate for him.

Ms. Sachsman Grooms. And do you recall his testimony regarding the Clinton email investigation?

Mr. Rybicki. I do generally, yes.

Ms. Sachsman Grooms. And did you find that testimony to be accurate and to reflect the information that he had shared with you contemporaneously, to the best of your memory?

Mr. Rybicki. To the best of my memory. Of course, there's a risk I missed some of it or -- but I don't recall anything jumping out at me that seemed inaccurate.

Ms. Sachsman Grooms. Was there anything that he said during his testimony that you recall jumping out at you for being inaccurate?

Mr. Schools. Can we confine that to the subject matter of this hearing?

Ms. Sachsman Grooms. Do we really need to?

Mr. Schools. Yes.

Ms. Sachsman Grooms. Do you recall anything about his testimony that jumped out at you being inaccurate that fits within the confines of the scope that you're permitted to speak about?

Mr. Rybicki. No.

Ms. Sachsman Grooms. All right. I think we're out of time. Thank you very much.

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Mr. Hiller. We can go off.

Mr. Somers. I think that will conclude the interview for the day.

Thank, Mr. Rybicki, for appearing.

[Whereupon, at 6:07 p.m., the interview was concluded.]

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Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

Witness Name

Date