

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

INTERVIEW OF: JAMES A. BAKER

Wednesday, October 3, 2018

Washington, D.C.

The interview in the above matter was held in Room 2141, Rayburn House Office Building, commencing at 10:02 a.m.

Present: Representatives Meadows, Jordan, and Raskin.

COMMITTEE SENSITIVE

Mr. Somers. Good morning. This is a transcribed interview of Jim Baker. Chairman Goodlatte and Chairman Gowdy 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 into decisions made and not made by the Department of Justice and the Federal Bureau of Investigation regarding the 2016 Presidential election.

Would the witness please state his name and last position held at the Federal Bureau of Investigation for the record?

Mr. Baker. My name is James A. Baker. The last position I held at the Bureau was senior strategic adviser.

Mr. Somers. On behalf of the chairman, I want to thank you for appearing today, and we appreciate your willingness to appear voluntarily.

My name Zachary Somers, and I am the majority general counsel for the Judiciary Committee. I will now ask everyone else in the room to introduce themselves for the record, starting to my right with Art Baker.

Mr. Arthur Baker. Arthur Baker, investigative counsel, House Judiciary Committee, majority staff.

Mr. Breitenbach. Ryan Breitenbach, senior counsel, House Judiciary, majority staff.

Mr. Castor. Steve Castor with the Committee on Government Reform, majority staff.

Mr. Meadows. And Congressman Mark Meadows.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Ms. Hariharan. Arya Hariharan, counsel, Judiciary, minority.

Ms. Kim. Janet Kim, Oversight, the minority.

Ms. Shen. Valerie Shen, Oversight, minority.

Mr. Hiller. Aaron Hiller, counsel for House Judiciary, minority.

Ms. Sachsman Grooms. Susanne Sachsman Grooms, Oversight, Minority Chief Counsel.

Mr. [REDACTED], FBI, Congressional Affairs.

Mr. Buddharaju. Anudeep Buddharaju, House Oversight, Mr. Gowdy's staff.

Mr. Ventura. Christopher Ventura, law clerk, House Judiciary, majority.

Ms. Doocy. Mary Doocy, legislative counsel, Mr. Meadows' office.

Ms. [REDACTED], Office of General Counsel, Federal Bureau of Investigation.

Mr. [REDACTED], Office of General Counsel, FBI.

Ms. [REDACTED], FBI OGC.

Mr. Levin. Dan Levin, counsel for Mr. Baker.

Mr. Somers. The Federal Rules of Civil Procedure do not apply in this setting, but there are some guidelines that we follow that I'd like to follow go over.

Our questioning will proceed in rounds. The majority will ask questions for an hour, and then the minority will have the opportunity to ask questions for an equal period of time. We will go back and forth

COMMITTEE SENSITIVE

in this manner until there are no more questions and the interview is over.

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

As I noted earlier, you are appearing today voluntarily. Accordingly, we anticipate that our questions will receive complete responses. To the extent that you decline to answer our questions or if counsel instructs you not to answer, we will consider whether a subpoena is necessary.

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

Mr. Baker. Yes.

Mr. Somers. So that the report can take down a clear record, it is important that we don't talk over one another or interrupt each other if we can help it.

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

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

Mr. Levin. Dan Levin at White & Case.

Mr. Somers. 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 do not understand one of our questions, please let us know.

If you honestly don't know the answer to a question or do not remember it, it is best not to guess. Please give us your best recollection, and it is okay to tell us if you learned the information from someone else.

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

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

Mr. Baker. Yes.

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

Mr. Baker. Yes.

Mr. Somers. Witnesses who knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statement. Do you understand this?

Mr. Baker. Yes.

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

Mr. Baker. No.

Mr. Somers. Finally, I'd like to note that, as Chairman

Goodlatte stated at the outset of our first transcribed interview in this investigation, the content of what we discuss here today is confidential. Chairman Goodlatte and Chairman Gowdy ask that you not speak about what we discuss 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.

That is the end of my preamble. Do you have any questions before we begin?

Mr. Baker. No.

Mr. Levin. I just have one comment.

Jim is here voluntarily. I apologize that my schedule has a hard stop at about 2 o'clock. And I understand you may not be done by then. And he will come back another day if that is necessary. But I just apologize that my schedule would not allow it.

Mr. Somers. We'll see where we are at 2 o'clock and decide then.

I will now turn it over to Art Baker to begin our first round of questioning. It is about 10:08.

EXAMINATION

BY MR. ARTHUR BAKER:

Q Again, thank both of you for coming in today.

Mr. Baker, when we went around and did our opening introductions you mentioned your last position at the FBI was senior strategic adviser. How long did you occupy that position?

A From early January 2018 until, I think, the first week of May 2018?

Q And the first week of May 2018, is that contemporaneous or around the time that you resigned from the FBI?

A Yes.

Q Prior to you assuming the duties of senior strategic adviser, what was your position at the FBI?

A General counsel.

Q And how long did you occupy that position?

A From January 2014 until January 2018.

Q What exactly does the general counsel at the FBI do? It's my understanding that you in that capacity would be the chief legal officer for the FBI. Is that correct?

A That's a fair way to say it, yes. And also the head of the Office of General Counsel?

Q And as head of Office of General Counsel, you supervise a cadre of lawyers and support staff?

A About 300 people altogether. About 200 lawyers and 100 other professionals.

Q And the general counsel's office is responsible for providing legal advice to the rest of the FBI?

A To the entire FBI on all of the matters that the FBI works on, in coordination with the chief division counsel who are FBI lawyers deployed in the various field offices around the country. There's around 130 of those deployed in all field offices.

Q Okay. So those chief division counsels that are deployed to the field offices, they would be the general counsel's office

representatives for that particular field office?

A Sort of. I mean, they didn't report directly to me, they reported to the head of the field office, the SAC, for example, but there was sort of a dotted line to the Office of General Counsel?

Q So there's coordination and consultation between these chief division counsels in the field office and FBI headquarters?

A Yes.

Q Okay. For the headquarters entity, it's my understanding that the Office of the General Counsel has lawyers, representatives embedded in the various divisions at headquarters. Is that correct?

A For many of them, yeah. I don't think it's every one, but, yes, for many of them.

Q So would it be fair to say that the general counsel's office has a fairly active role in most of the FBI activities? They seem to be -- you've indicated they're out in the field offices, many of the divisions have them embedded. It sounds like the general counsel's office has a pretty broad representation of representatives, pretty wide and far in the Bureau. Is that true?

A I think that's right, yeah. I mean, we can't be everywhere all the time, and we would like to have more resources than we have. But we try to make sure that we are providing legal services to the entire Bureau as needed, in coordination with each other and then in coordination with the Justice Department as well.

Q And these lawyers that are embedded in the various divisions, they are the lawyer for that division and the division are the clients

for that lawyer?

A Sort of. I mean, at the end of the day the Bureau, the FBI, is the client, the United States Government is the client. But those are the agency -- or those are the subcomponents of the FBI that they are trying to help achieve their mission.

Q So under this structure, you indicated, in the field the chief division counsels are answering to the SAC, but there is coordination and consultation with general counsel's office at headquarters. These embedded attorneys at headquarters and the units and divisions or sections that are in the general counsel's office, they all ultimately answer to you as the general counsel?

A The OGC people do, yes, not the chief division counsel, but --

Q They are answering to the field office entity?

A Correct.

Q But the basis of their legal decisions, I'm assuming, are bounced off of the attorneys that are back at headquarters and AUSAs that are in the field?

A Not always, but it's best -- it doesn't always happen, but it's best if they are coordinated with the appropriate folks at OGC and, when necessary, at the U.S. Attorney's Office or Main Justice.

Q Very briefly, could you describe how the general counsel's office is broken down? I assume there's broad divisions. Could you just elaborate on how it's very generally divided up?

A Sure. There's basically three branches, each headed by a deputy general counsel. One handles national security and cyber

matters, one handles litigation, and then one handles basically everything else, forensic science, privacy and civil liberties, training, a whole range of different things. So three main branches in OGC.

Q And then these deputy general counsels, I'm assuming, are people you would interact with probably more frequently than, say, a line attorney or a unit chief or something of that nature?

A That's true.

Q Okay. Somewhere in your org chart I'm guessing you have some sort -- maybe not the org chart, but I'm guessing, as a component of the Department of Justice, the FBI's general counsel is somehow interfacing with the Department of Justice lawyers on matters, too?

A Yes, sure. Yes, absolutely.

Q So you indicated the National Security Law Branch, I think you called it, in cyber. Are you familiar with an investigation that the FBI called Midyear Exam?

A Yes?

Q Would that be the division where Midyear Exam was assigned?

A It was assigned to the National Security and Cyber Law Branch?

Q Okay. Who would the deputy general counsel for that branch have been?

A I think for the whole time it was Trisha Anderson?

Q So you and Ms. Anderson would have had fairly frequent contact in discussions about the case?

A Yes, I would say fairly frequent.

Q I guess to back up a little bit, what would the general counsel's role be? I mean, we can specifically say for Midyear Exam. What does the general counsel bring to the table and at what part of an investigation is the general counsel brought in, and specifically for Midyear Exam?

A So I don't specifically remember how it started in terms of the OGC's involvement in it, but I think we were involved pretty much from the start, providing advice and counsel to the FBI agents, managers working the case.

So they are doing the investigation and we are working with them to provide them advice to make sure that they are following FBI policies and procedures, DOJ policies and procedures, that they are helping with any interactions that need to happen with the Department of Justice.

If there's a legal question and DOJ is asking that and our agents aren't lawyers and need help analyzing the legal framework, the legal questions in connection with DOJ, we will help them with that.

Q Who at DOJ would you have interfaced with in a national security matter, specifically Midyear Exam, a case that's opened under a classification that puts it into that Law Branch?

A So there were a number of different people. I'm not sure I can remember all of them off the top of my head. But it was essentially assigned to the National Security Division at Main Justice and then a couple folks from the U.S. Attorney's Office eventually in Eastern District of Virginia.

Q Who were the names of the folks at Main Justice?

A I think John Carlin was the head of the National Security Division at the time. I think George Toscas worked on it. David Laufman, who was the head of the espionage section.

And I'm drawing a blank right now on the line attorneys, but there were line attorneys also within the espionage section who were working on it.

And then there were from time to time folks in the deputy attorney general's office that worked on it. Matt Axelrod worked on it a bit.

So that's what I'm remembering off the top of my head.

Q Sure. Prior to --

Mr. Breitenbach. Sorry.

BY MR. BREITENBACH:

Q Did Tashina Gauhar ever work on it, to your knowledge?

A Given her position in the DAG's office, she may have, but I don't remember specific --

Q You don't remember interacting with her?

A Not very much. I know Tosh very well, but I don't remember interacting with her very much on Midyear?

Q But some you had interacted with her or --

A Just sitting here right now, I can't remember.

BY MR. ARTHUR BAKER:

Q I understand prior to your appointment as general counsel you were in the private sector as counsel. Prior to that, you have worked at Main Justice before, correct?

A Yes.

Q And what was your role there?

A Immediately prior to that, from 2009 to 2011, I was in the deputy attorney general's office. I was an associate deputy attorney general.

And then, from 1990 until 2007, I worked at Main Justice, first in the Criminal Division, and then in something called the Office of Intelligence Policy and Review, and then eventually in the National Security Division.

Q And what did you do in this OIPR office? What was your function there? And what did that office do?

A I started out as a line attorney and I moved up and eventually became the head of the office. And among things the -- well, the office provides advice to the Attorney General and other executive branch officials on national security law, intelligence law.

But a lot of what the work is and was is representing the United States in front of the Foreign Intelligence Surveillance Court. So I was responsible for that from, well, I guess you would say, probably from 1998 until 2007.

Q And that Foreign Intelligence Surveillance Court is what commonly is referred to as FISA?

A Yes.

Q And then this OIPR office morphed into or became the National Security Division?

A It was merged into the National Security Division.

Q So would it be fair to say, prior to your appointment as general counsel of the FBI, you have significant experience and background in national security law?

A Yes.

Q And you are well versed in FISA?

A Yes.

Q Competent in the espionage statutes?

A To some degree, less so than the folks in the espionage section, but I have dealt with the espionage statutes in a variety of different ways over the years.

Q Would that be your main area of expertise coming to the FBI? I mean, it sounds like you are pretty well experienced in national security law?

A National security law, I would say generally, yeah. Probably more FISA than the espionage statutes for sure, if you are going to break it down that way. But national security in general, yes.

Q Going back to Midyear Exam, did you have any input as to the classification of that case when it was opened? For example, rather than having it open under a classification that would put it in the national security lane, was there any discussion, debate, dissent about why it should possibly be classified as a criminal matter and maybe end up in a different part of the FBI for investigating?

A I don't remember a significant debate or discussion about that. I don't think I played any role that I can recall sitting here

today in terms of the classification of it.

And I guess the only other thing I would say was the fact that it was in the national security lane didn't mean that the FBI couldn't use all of its national security and law enforcement authorities to address it.

Q So based on the facts of the case as you initially understood them, you were comfortable with the espionage statutes, whatever related to handling classified information, you were comfortable that it was opened appropriately and that the national security apparatus of the FBI were where the resources should be to investigate it?

A Yes, I would say. The resources and the -- looking back on it now, I would say that's the case.

And it's not only the resources, it's the expertise in dealing with classified information, how to handle it, how to think about it, how to understand how other people should handle it and be able to ask good questions about that, that kind of thing.

Q And you've indicated that OGC would be providing legal guidance to the folks that would maybe be investigators, analysts, computer experts, whatever. Your national security branch would be providing legal guidance to them as they did whatever, decided what to interview, what to take out of the computer, what to look at, OGC would be the one giving legal advice on that?

A Yes, in coordination, as needed, with the U.S. Attorney's Office or other folks within the Bureau. If there was a particular question some other lawyer needed to answer, we could get help from

them.

But, yes, it was mainly the national security branch. And there it was mainly the counterespionage unit, the counterespionage law unit.

Q And then some interaction with DOJ, I assume?

A Much -- a lot of interaction with DOJ.

Q Backing up just a minute, when you were appointed to the general counsel's office, you were appointed by then-Director Comey?

A Yes.

Q You had known Mr. Comey previously?

A Yes.

Q And how did you know Mr. Comey?

A He had been my boss twice before. When I was the head of the Office of Intelligence Policy and Review, that was a component head. So therefore it reported directly to the deputy attorney general.

So when Director Comey came in to take that position he was my boss for how -- I can't remember how long he was there, but for a year or 2 years, whatever it was. So he was my boss there.

And then when I was at Bridgewater Associates in Connecticut, a hedge fund in Connecticut, he was my boss there. He was the general counsel and I worked for him.

Q You have a professional relationship with him, obviously. Do you have a social relationship with him as well?

A He's my former boss, he's my colleague, he's my friend, I would say, yeah.

Q So what would your relationship have been as -- when he's

the Director, again your boss, and you're really his chief lawyer, how willing was he to accept candid legal advice from you?

A He demanded it.

Q Demanded it.

What was your thought about giving him legal advice? Would he be a client that would take your legal advice and act on it? Would he be a client that would listen but do something completely different? I'm just curious what your perspective on the relationship was as the attorney?

A Well, the relationship was based on complete candor with each other and telling each other the truth. And if I disagreed with him or thought he was doing something wrong or bad or stupid, it was my obligation to tell him that. And that's the kind of relationship that we had. And if he disagreed with me and thought I was doing a bad job, he would tell me that, too. And that was across all the range of our interactions, not just the law or arguing about legal matters.

And, you know, he's an excellent lawyer, so it's kind of challenging sometimes to have an excellent lawyer as your client.

But it was across the range of everything having to do with Bureau, the leadership, strategic initiatives of the Bureau. So we had that type of relationship across the full range of the Bureau's activities. And I felt free to speak my mind about any topic that I thought I had to say something about.

Q So it sounds like, would it be fair to say, that you had a good attorney-client relationship with Mr. Comey?

A Absolutely.

Q When he appointed you, in addition to the obvious requests or charges that you run a good general counsel's office, that you provide good, candid advice for all the FBI, were you given any charge to do anything specifically with the general counsel's office to improve morale or anything like that?

A Yes. There was an issue when I arrived with respect to morale and he told me absolutely to focus on that.

Q Could you elaborate on what the issue with morale was?

A There was an issue of morale with respect to some people had concerns about the prior general counsel as to how he ran the office and that had an impact on morale. And so I was asked to try to understand exactly what the problem was and address it.

Q Who was the previous general counsel?

A Andrew Weissman.

Q So was there any empirical data shown to you that reflected however you could map poor morale?

A There were. Yes, the FBI does an annual climate survey, and so I had that, and I think I may have had some other surveys that were provided to me as well. So I had some quantitative basis to try to understand what the issue was and discuss that with folks in the office at the time.

Q And what steps did you embark on to improve that morale?

A I tried to understand what the issues were. I tried to -- there was some concern about me coming to OGC because I had been

at DOJ, And so I tried to address concerns that folks in that regard.

But then really just tried to understand what the problems were, understand the organizational structure, understand what the work was, not to rush into decisions with respect to the organization, but really get to know it as well as possible.

And then after that, we -- I can't remember exactly when it was, maybe like a year later -- we did a complete reorganization of the office that I think made sense at the time.

And then it was just day to day trying to make sure that I treated my folks -- it's an amazing group of people at OGC and I'm very proud of them and very proud to have been associated with them -- to try to treat them well and make sure I include -- I'm an inclusive leader who showed that I valued them.

Q How successful do you think you were?

A You've got to ask them. I don't know about that one. You can look at my climate survey and see what the result was?

Q Do you know what your climate survey was?

A It got better over the years. It was never perfect, but it got better over the years. And I don't know what it was after I left.

Q Better compared to when it came in?

A I think so, yeah.

BY MR. BREITENBACH:

Q Can you elaborate on some of the concerns that you had heard when first arriving at the Bureau as general counsel that had been experienced under the prior general counsel, Mr. Weissman?

A Let's see. I think the concerns were that -- I mean, the assessment was Andrew is an excellent lawyer, but he had not had a lot of management experience running an organization of that size. And 300 people, it's a big organization. And so I tried to -- having the management experience that I had, I tried to focus on that side of things.

I think people had concerns about Andrew's interpersonal skills, I guess you would say. Some people objected to how he treated people. And so they expressed concerns to me about that.

Q Was any of that treatment ever involving any level of political -- politically tinged in any way?

A Not that I recall. I don't specifically recall anything like that.

Q So in terms of treatment, can you elaborate?

A Just dealing with people on an interpersonal basis. If Andrew thought, as I understood it -- and I was not present for the conversations that Andrew had with folks, so just put that as a caveat in what I'm saying -- but just in terms of he could be abrupt, I guess you would say, he could be brash, and sometimes people thought that he was dismissive of them, things like that.

Q And in terms of conversations that you had with Director Comey concerning the environment that you were coming into, was this something that was a directive from the Director in order to instill some more confidence in the general counsel's office with regard to the morale following General Counsel Weissman's tenure?

A Well, yeah. I mean, Director Comey cares deeply about the people at the FBI, did and still does, and he wanted me to address this. This was a significant issue. It had come up in the climate surveys. He heard a lot about it when got there and specifically told me, yes, deal with that, focus on that, spend a lot of time on that. Make sure that you're being a leader for these folks. Focus on the leadership part of your job vis-a-vis OGC. So, yes.

And I think he spoke about it before I got there with the whole staff. I think he had like a townhall or something before I got to OGC and people responded to that, or at least we had some meetings with folks. And I heard it from other people on his staff as well, that you, Jim, should focus on morale when you get here.

Q Did you ever hear from Director Comey as to a lack of confidence that he might have had in the legal acumen of Mr. Weissman?

A I never heard about that. I don't recall that. I don't recall that.

Q Okay.

A It was on the management side.

BY MR. ARTHUR BAKER:

Q Going back to Midyear, how often would there be meetings about Midyear Exam? Obviously a very big case, a very sensitive case. How often would you be called into meetings?

A So I don't know the full scope of all the meetings that the team had on the case, so just be careful about that. But in terms of meetings that I attended, there were a series -- early on there were

a series of regular briefings, I think, that the deputy director asked for. He would get updates. There would be oral briefings and then a short write-up, and I want to say it's every week or every 2 weeks. Something like that, I don't remember specifically. And so the case went on for a while.

And then as the case progressed and we got closer to an eventual decision, there were more briefings for the Director himself and the deputy director and the senior leaders by the case -- the leaders of the team. So Pete Strzok, Jon Moffa, Bill Priestap, those folks.

So the frequency increased over time and the participants changed over time as we got closer to a resolution of the case.

Q I know from previous interviews we have done and documents we have reviewed certain people that occupied certain positions, I think you've alluded to this, they sort of changed as the case went on. Some retired, some maybe promoted out.

A Yes.

Q You were the general counsel for the whole duration of Midyear?

A Yes.

Q Okay. And your deputy for national security law, Trisha Anderson was she the deputy for the whole time?

A She probably wasn't the deputy for the whole time. So when it started -- to be honest, I can't remember exactly when it started. But it might have been [REDACTED] was the acting deputy, I think, at the start of it.

Q And they would also be involved in these meetings?

A Not -- as it progressed, yes. Early on it would be -- early on they would not be, at least the ones that I attended for the senior leaders. But as time progressed, Trisha came to most of those meetings along with the unit chief for the counterintelligence law unit.

Q Were there, for lack of a better term, sub --

Mr. Meadows. Excuse me.

Who was the counterintelligence lawyer that you're referring to?

Mr. Baker. It's a GS-15 name and the FBI has told me not to say that. So I can answer that question, but I'd defer to the FBI on that one.

Mr. Meadows. Well, we need to know the name. I mean, obviously, if we're looking at witnesses, I understand from a privacy standpoint, but we need to know the name.

I mean, if we are going to go back through this, we have done this over and over again, if we are going to have witnesses come in, whether they're of a certain level or not, if they were important enough to be in this meeting, then they're important enough for us to know the name.

Ms. [REDACTED] We can take that back to our management.

Mr. Meadows. Here's what I would recommend that you do. Get one of you on the phone, get permission right now, so that while we have him here we get that. That's a reasonable request. You've got three attorneys. One of you can get on the phone and get permission.

Ms. [REDACTED] Sure, we can do that, Congressman.

Mr. Arthur Baker. My next question involves a 15 name, but I think it's one we've been able to discuss before, Lisa Page? Is that okay?

Mr. Baker. That one's okay?

Ms. [REDACTED] Yes.

BY MR. ARTHUR BAKER:

Q Lisa Page was an attorney in OGC at some point?

A I think all along her official position was that her slot, if you will, was as an attorney in OGC, that is correct.

Q And then at some point she was assigned where?

A So at various points she was assigned to work for Andy McCabe when he was the executive assistant director for national security. She was in that position when I got to OGC. I'm not sure when she started, maybe 2013 until he left, and I can't remember when he left that job.

And then when Andy came back as the deputy director, Lisa then held a special adviser kind of position for him as well. So she was technically still in OGC, but she was on assignment to work for Andy McCabe.

Q Was there -- are you aware of any tension with Ms. Page and maybe you or someone in general counsel's office about what her title would or should be in Mr. McCabe's office?

A I had discussions with Lisa about that at various points in time. We came to an agreement about what she would be doing without regard to what the title was, and I felt comfortable that she understood

the scope of her job and how she was supposed to interact with OGC. And so to me it mattered less what the title was then that she understood what her job was supposed to be?

Q So would she be allowed to give Mr. McCabe legal advice in whatever her title was while assigned to his office? Was she still an OGC person for purposes of being a lawyer and allowed to give advice? Or was she something different but carried on the OGC org chart?

A There's not a crisp answer to that question, I'm sorry. Of course I knew she would be talking to Andy about legal matters throughout that time. But the point was she was supposed to include OGC -- she wasn't supposed to be the definitive giver of legal advice for the FBI to the deputy director, that she was supposed to coordinate back with me, or other folks on my staff, Trisha Anderson, or if she knew that the question involved some other part of OGC she was supposed to coordinate back with them, steer folks back to that part of OGC. That was the understanding that we had, at least that I understood.

Q Are you aware of --

BY MR. SOMERS:

Q And did she? I mean, you say she was supposed to.

A I'm not going to swear that she did it every single time.

Q But as a general --

A As a general matter that was our -- that was my understanding, that was what I told her, that's what she agreed with, and that's what she was supposed to do.

Of course I knew that in the moment if a decision had to be made

quickly that she and Andy might have a conversation, but I expected them to report back to me about important things. And I had leave it to both of their discretion to figure out that -- what important was, I know it's kind of vague. But that was how we were supposed to try to work it out.

Q Who did she report to, to Deputy Director -- I mean, what --

A Yeah, I mean, she essentially reported to the deputy director?

Mr. Arthur Baker. Who did her performance appraisal?

Mr. Baker. Hmm, good question. I don't know the answer to that.

Mr. Arthur Baker. You don't have --

Mr. Baker. I may have. I may have. I may have had input to it, but I don't remember, like, who signed the various performance evaluations. I'm sure the OGC can figure that out.

BY MR. BREITENBACH:

Q Were you aware whether there was ever an attorney that had been assigned directly to a deputy director in prior history?

A Prior history, I don't know. [REDACTED] was a DOJ person who worked for Mark Giuliano. So she was a lawyer, not really serving in a -- so a DOJ lawyer over at the FBI, not really serving in a lawyer capacity. Again, she wasn't really supposed to be giving legal advice, she was -- I think she was actually chief of staff. So she was supposed to help him run the office as opposed to dispense legal advice.

Q Is there a rule or a -- a written rule as to providing legal

guidance inside the FBI?

A There are legal rules. I will be frank, I think they're a bit messy. They're not as clean as I would have hoped to have cleaned them up before I left, but I didn't. It's not as clean, I think, the regs are not as clean as you would hope, if you want to be technical about it.

Q But we know that there are lawyers outside of the general counsel's office, correct?

A Yes.

Q And many of those lawyers are agents as well?

A There's agents who are lawyers, there's agents who are in legal roles, there's agents who are not in legal roles but who are nevertheless lawyers. And then agents from the Bureau talk to assistant U.S. attorneys across the country all the time. This is a standard practice.

Q But in terms of lawyers within the general counsel's office, if you're in the general counsel's office you are authorized within the FBI to provide legal guidance, but if you are a lawyer outside of the general counsel's office and outside of the chief division counsel offices in the field, are you authorized to provide definitive legal guidance for your client, so to speak, inside the FBI?

A Generally no, but there are a few exceptions, like folks that deal with employment law, discrimination, that kind of thing. There's a few little pockets of offices around the Bureau, it's confusing, but there are pockets within the Bureau who are allowed to give legal advice

that don't remember to general counsel.

It's not perfect. I admit that that is not the best way to manage everything. But that's how it grew up over time.

Q What pockets are those?

A I think it's the EEO folks that have the authority to give some legal advice in certain circumstances. And I'm trying to think. There are a few other pockets of offices and I just -- I'm drawing a blank right now off the top of my head. That's what I remember. That was just kind of an issue throughout my tenure as general counsel and one that I was unable to fix.

BY MR. ARTHUR BAKER:

Q My colleague reminded me of an issue, going back to the climate in OGC. Was there an issue with EEO complaints filed in OGC? Specifically, were there a high number?

A There were EEO complaints that I was aware of when I arrived. There were ones that were filed while I was there. We have a whole group of people that work for Ms. [REDACTED] that are responsible for representing the FBI in that.

I don't remember hearing any -- I don't remember information about a quantitative blip up or something like that.

Q What about a theme? Was there any particular issue that came up in these complaints?

A Like a recurring theme? I don't remember that. I think there were -- there were several that I was aware of. I'm not sure they were all of the same type. I think there were a variety of

different types that I can recall.

Q Have they been resolved or any of them resolved prior to your resignation?

A I think most of them were resolved, yeah.

Q How were they adjudicated?

A I think a lot of them -- there's a mediation process within the FBI and I think a lot of them are settled through that process. Some, I think, went to the EEOC, but I think -- I would guess the majority of them were settled.

Q Okay. Was there any indication from the Department of Justice, whoever their EEO folks would be, that there were a very high number of EEO matters in the FBI's general counsel's office and that there needed to be some resolution of some of them at the Bureau level? And maybe it's the mediation level that you talk about. Are familiar with any concerns at DOJ about a high number?

A I don't recall that.

Q Going back to Midyear, one of the themes, one of the big themes that we've looked, other entities have looked at, certainly the inspector general looked at, as to whether there was bias in the FBI involving the decisionmaking process in two of their big cases, Midyear and another one that we'll talk about a little later, I want to jump ahead a little bit because it's my understanding you played a very unique role early on with requesting that an inspection be done of the Midyear case once these texts became known.

A Uh-huh.

Q And that there, on the face of it, appeared that there was some language that could be interpreted very pro one candidate, very anti another candidate, and that would be bias. That you took the initiative, it's my understanding, to request that the FBI's internal inspection mechanism take a look at the Midyear case to see what might be right with it, what might be wrong with it.

Could you elaborate on that? That's something we haven't heard a whole lot about?

A Yes. And I'm looking across the table at the inspector general report and I think there's some discussion of that in there.

So, yes, when I heard about these texts, I only read a few of them. They were described to me. And I immediately became quite alarmed. And so my thinking was, well, from a -- from the -- okay. I don't know what -- I know that -- I knew that the inspector general was looking at them. I knew that they would address them. And so I knew that there was a process in place.

So what I was concerned about is whether -- whether any decisions had been taken -- or not taken -- in the Midyear case that were driven by political bias of any sort. I was quite worried about that. And I wanted to make sure that we as an institution, the Bureau as an institution, got on top that extremely quickly.

And so I suggested to the leadership that we put together some type of team -- I didn't exactly know how to do that, but I consulted with other folks -- to basically do a review of the case and have an independent group of people come in and look at and assess whether any

decisions were made that looked unusual, that looked like they were driven by bias, decisions made, actions taken, or things not done. That's what I was also worried about, the omissions, right?

So we talked about that, and there was an agreement to do that, and eventually it was set up and it was done.

At the outset I was also quite worried, knowing full well that the inspector general's office was doing an investigation, that I didn't want to mess up anything that they were doing.

And so we worked in coordination with the inspector general. I actually spoke to him and made sure that he knew what we were doing -- and his staff -- knew what we were doing, why we wanted to do it, to make sure that it was okay with him. And he approved it, his office approved it.

So we went forward with this review, sort of done quietly off to the side. But from my perspective it was incumbent upon us as good managers to actually be good managers and to do this.

Q And you became concerned when you became aware of the texts?

A Yes.

Q Do you remember specifically what texts? You indicated you didn't read all of them. Do you remember what specifically alarmed you?

A I only saw a few, and I think there was a derogatory reference to the President. I guess he was not the President at the time.

And then, I can't remember who exactly it was that described them to me, but they were described in their general character.

So I only read like a couple, literally a couple. But that was enough for me to hear, that it freaked me out. And I was worried and I thought we need to get on top of this quickly.

Mr. Breitenbach. Do you recall when you actually learned about the texts?

Mr. Baker. It was around the time when -- so there was some event when Andy McCabe was called across the street to meet with the inspector general to be told about the texts, and it was like right in that time period. It was either that day or the next day. And I was told by --

Mr. Breitenbach. Can you approximate when that might have been?

Mr. Baker. I don't remember, I'm sorry, just off the top of my head. It's when -- I believe it was more or less contemporaneous when the Bureau found out about them. So when the Bureau management found out about them, that's when I found out about them. I'm drawing a complete blank.

Mr. Jordan. Was that in summer, last summer?

Mr. Levin. Is it in the IG report?

Mr. Baker. It might be in the IG report. I'm sorry, I just can't remember like the exact date sitting here today, or even the months. But it was -- whenever Andy McCabe was called across the street, it was like that day or the next day that I found out about them.

Mr. Jordan. Can I go guys? Do you mind?

Mr. Baker, I'm Jim Jordan, Fourth District of Ohio. Thanks for being here this morning.

So let me go back to be when you -- you were general counsel up

until late December of last year.

Mr. Baker. Actually, it was the first week of January.

Mr. Jordan. The first week of January. Okay. And then your title became what?

Mr. Baker. Senior strategic adviser.

Mr. Jordan. And was that the position you remained in until you left the FBI in, I think, this past spring of this year?

Mr. Baker. Until May, first week of May, I think it was.

Mr. Jordan. So like May 4th, I think it was. Okay. And why did your position change?

Mr. Baker. The position changed -- I had a conversation with the Director in December and he said that he was interested in making a change. And I said, okay. And we had a conversation about what I would like to do in the Bureau, and we talked about that. And I also said that at some point in time I would likely leave the Bureau, and so he talked about putting me --

Mr. Jordan. Do you remember the date of that conversation?

Mr. Baker. It was early December, I think, of 2017.

Mr. Jordan. Okay. Early December.

So one of things that we were curious about is my understanding you accompanied Mr. McCabe when he was first deposed by House Intel in mid- to late December. A couple days later, he, Mr. McCabe, was in this very same room going through the same exercise you're going through today and you did not accompany him to that particular transcribed interview.

Is there a reason you were at the first one and not at the second one?

Mr. Baker. The first one, which I think was in a different room than we are in today --

Mr. Jordan. It was. It was with the House Intel Committee. And then a couple of days later, maybe even the next day, I can't remember, but I believe it might have been the next day, you were not with Mr. McCabe at that particular one that we were at.

Mr. Baker. Yeah, the first one the deputy director of the FBI was going up to the Hill to testify. And I was the general counsel to the FBI, and I thought, given his rank, I should be the one that goes with him.

By the time the second one was either scheduled or whatever, I can't remember, Congressman, somebody objected. There were some complaints about me being there. And so --

Mr. Jordan. It was the very next day, I believe.

Mr. Baker. Was it the next day? So there was some -- it was maybe that evening or in the morning, I remember having a meeting with Andy and some others in his office and there was some level of complaints, I don't remember specifically by who, and we just decided: No, Jim, just don't go. You skip this one. I can't remember. We may have sent Trisha Anderson, I don't remember, but --

Mr. Jordan. Who made that decision for you not to come?

Mr. Baker. I'm sorry?

Mr. Jordan. Who made that decision for you not to come?

Mr. Baker. I would say it was Andy.

Mr. Jordan. Andy --

Mr. Baker. Andy McCabe, yeah.

Mr. Jordan. Yeah. So the guy you were sort of representing and helping in that was the guy who told you not to come?

Mr. Baker. Yes.

Mr. Jordan. Okay. I'm going to move to another subject here. Tell me about your relationship with David Corn.

Mr. Baker. David Corn?

Mr. Jordan. Yeah.

Mr. Baker. David is a friend of mine.

Mr. Jordan. Tell me about that. A close friend? Long-time friend?

Mr. Baker. Long-time friend.

Mr. Jordan. Long-time friend. When did you first meet Mr. Corn?

Mr. Baker. I don't specifically remember. A long time ago, though.

Mr. Jordan. Years ago?

Mr. Baker. Years and years and years ago, yeah. Our kids carpooled together. We carpooled with them when our kids were little.

Mr. Jordan. You live in the same neighborhood?

Mr. Baker. Live in the same city, yeah.

Mr. Jordan. Okay. All right. How often do you talk with Mr. Corn?

Mr. Baker. Every few months or so.

Mr. Jordan. How about in -- I think you probably know where I'm headed -- how about leading up to just prior to the election of -- Presidential election of 2016, how many times did you talk with David Corn in the weeks and months prior to election day?

Mr. Baker. I don't remember.

Mr. Jordan. Is it fair to say you did?

Mr. Baker. Yes, I did, but I just don't remember how many.

Mr. Jordan. And did -- so did you talk to Mr. Corn about anything that the FBI was working on, specifically the now infamous Steele dossier?

Mr. Levin. One second.

[Discussion off the record.]

Mr. Levin. I'm sorry, I'm going to cut -- not let him answer these questions right now. You may or may not know, he's been the subject of a leak investigation which is still -- a criminal leak investigation that's still active at the Justice Department. So I am cutting off --

Mr. Jordan. Can you speak more in the mike there?

Mr. Levin. I'm sorry. I'm cutting off any discussion about conversations with reporters.

Mr. Jordan. Based on --

Mr. Meadows. You're saying he's under criminal investigation? That's why you're not letting him answer?

Mr. Levin. Yes.

Mr. Meadows. And so you're saying that you're going to take the Fifth.

Mr. Levin. No, I'm saying I'm not letting him answer the questions. This is a voluntary --

Mr. Meadows. That's not the prerogative.

Mr. Levin. Well, it's a voluntary interview now, so it is.

Mr. Meadows. So what you're saying is in order to answer Mr. Jordan's questions he's going to have to be subpoenaed?

Mr. Levin. I'm saying I'm not going to let him answer the question now. If you choose to subpoena him, that's obviously your right.

Mr. Jordan. Just to clarify for us, you're, counsel, advising Mr. Baker not to answer that question because of -- not because of it's classified, not because of any classification concerns, but because there is an ongoing investigation by whom?

Mr. Levin. The Justice Department.

Mr. Jordan. I mean, is the inspector general looking at this or is this --

Mr. Levin. No, it's Mr. John Durham, a prosecutor.

Mr. Jordan. Mr. Huber.

Mr. Levin. Durham, Durham.

Mr. Jordan. Oh. Say it again.

Mr. Levin. John Durham.

Mr. Jordan. All right.

Did you talk to Mr. Corn prior to the election about anything,

anything related to FBI matters? Not -- so we're not going to ask about the Steele dossier. Anything about FBI business, FBI matters?

Mr. Baker. Yes.

Mr. Jordan. Yes. And do you know -- can you give me some dates or the number of times that you talked to Mr. Corn about FBI matters leading up to the 2016 Presidential election?

Mr. Baker. I don't remember, Congressman.

Mr. Jordan. Several times a week, several times a day?

Mr. Baker. Can I just consult with him for 1 second?

[Discussion off the record.]

Mr. Baker. If I could just focus. So what I remember most clearly is that at some point in time David had part of what is now referred to as the Steele dossier and he talked to me about that and wanted to provide that to the FBI.

And so, even though he was my friend, I was also an FBI official. He knew that. And so he wanted to somehow get that into the hands of the FBI because --

Mr. Jordan. David Corn wanted to give the FBI parts of the dossier?

Mr. Baker. That's correct. That's what he told me.

Mr. Jordan. Do you know where Mr. Corn got the dossier? Did he tell you that?

Mr. Baker. Sitting here today, I don't remember that. I know that I was interviewed by the FBI about this and there was a 302. I've never read the 302, but I understand there was a 302.

And to the best of my recollection I told the -- whatever I knew at the time, which was closer in time to the event, I told the FBI at that point in time.

So in terms of how David got it, I don't specifically remember --

Mr. Jordan. But you think it's recorded in the 302? You think you told them then, but you don't remember now?

Mr. Baker. I don't remember now. I just don't remember now how he told me that he'd got it. Because there were various copies of the dossier floating around Washington, I guess you would say, and the FBI was getting it, you know --

Mr. Jordan. There were at least three different copies, in my understanding, and they were getting it from all kinds of sources, including the author of the dossier himself; and also including Bruce Ohr.

So you definitely had conversations with David Corn prior to the elections about the dossier?

Mr. Baker. I believe that's correct. I don't remember specifically the date of these conversations, but I know that David was anxious to get this into the hands of FBI. And being the person at the FBI that he knew the best, he wanted to give it to me.

Mr. Jordan. Okay. And go back again, tell me exactly what the investigation -- the reason you can't answer more specific questions about the dossier is because there's an investigation, an ongoing investigation, as we speak, looking into exactly what?

Mr. Levin. And I'm sorry. I didn't say he couldn't answer any

questions about the dossier, and he just has answered some. I didn't want him talking about interactions with reporters because there is an ongoing leak investigation that the Department is having --

Mr. Jordan. He just talked to me about his interactions with a reporter.

Mr. Levin. Well, he's talked a little bit about it, but I don't want him talking about conversations he's had with reporters because I don't know what the questions are and I don't know what the answers are right now.

Given that there is an ongoing investigation of him for leaks which the Department has not closed, I'm not comfortable letting him answer questions.

So in terms of getting stuff from Mr. Corn, he told you what he remembers about it.

Mr. Jordan. So he talk to me only about what Mr. Corn may have gave him via information or actual documents or recordings or anything else, but he's not allowed to talk to me about information he may have given to Mr. Corn himself?

Mr. Levin. That's right. As a general matter, that's right. I mean, if you want to ask specific questions we can figure it out.

But as a general matter I'm not comfortable having him talk about things he has said to reporters while the Department still has an ongoing investigation.

Mr. Jordan. Mr. Baker, did you know about the dossier prior to Mr. Corn telling you he wanted to give the dossier to the FBI?

Mr. Baker. Yes.

Mr. Jordan. You knew about it?

Mr. Baker. Yes.

Mr. Jordan. Had you read it, the installments or sections or all of it that you had -- that the FBI had in their possession?

Mr. Baker. I know that I read some version of it. I can't recall if I read every single piece that we got from all the difference sources.

Mr. Jordan. Uh-huh.

Mr. Baker. But I know that at some point in time I read a significant portion of the dossier.

Mr. Jordan. Some point in time prior to the election?

Mr. Baker. I would think so, yes.

Mr. Jordan. So you knew about the dossier prior to the election and you had reviewed it prior to the election. And also prior to the election Mr. Corn had a copy of the dossier and was talking to you about giving that to you so the FBI would have it. Is that all right? I mean all accurate.

Mr. Baker. My recollection is that he had part of the dossier, that we had other parts already, and that we got still other parts from other people, and that -- and nevertheless some of the parts that David Corn gave us were parts that we did not have from another source?

Mr. Jordan. Yeah. And you understand that Mr. Corn was the first guy to actually write in a public way about the dossier?

Mr. Baker. I have heard about that, yes?

Mr. Jordan. Okay.

Mark, do you have any more questions on this section?

Mr. Meadows. So let me be clear. He wanted the FBI to have the dossier, David Corn did?

Mr. Baker. Yes, he told me that he had a piece of --

Mr. Meadows. So did he give you the dossier? Because obviously you got parts of the dossier from David Corn. So did he give that to you? Were you the intermediary?

Mr. Baker. He gave it to me, and then I immediately gave it to -- I think it was Bill Priestap, who was the head of our Counterintelligence Division?

Mr. Meadows. And when he gave it to you did you read it?

Mr. Baker. I don't think so. Not his part, no.

Mr. Meadows. So you lacked the curiosity to read something that significant? That seems strange. I mean, I would probably have read it.

Mr. Baker. I was very uncomfortable handling evidence, and I really wanted to --

Mr. Meadows. Well, and I guess that gets to -- theoretically, so we don't get into an issue here, theoretically, is it appropriate for SES-level employees, specifically those in the general counsel's office or the like, to have ongoing conversations with members of the media, whether it's David Corn or anyone else? Is that --

Mr. Levin. I'm not --

Mr. Meadows. And that's a theoretical question. I didn't say he was doing it. I'm just saying, theoretically, is that something

that's approved by the FBI on a regular basis where you have ongoing conversation with the media?

Mr. Levin. And I'm not going to allow him to answer that question, sir.

Mr. Breitenbach. Actually, let's just not say even theoretically. Is it approved practice for attorneys within the general counsel's office to speak with the press?

Mr. Levin. I'm not going to let him answer that question.

Mr. Meadows. Well, let me go a different direction then in following up on Mr. Jordan.

Is it normal practice for the general counsel to talk to confidential human sources?

Mr. Baker. Is it normal practice? No, it's not normal practice.

Mr. Meadows. Did you talk to confidential human sources?

Mr. Baker. There is another occasion that I can think of where somebody brought material to me, based on a preexisting relationship. They gave the material to me. Same situation. I was quite concerned about it. I gave it to the investigator --

Mr. Meadows. And who was that?

Mr. Baker. Who was that?

Mr. Meadows. Yeah.

Mr. Baker. Michael Sussman.

Mr. Meadows. And why did they seek Jim Baker, the general counsel, out for the intermediary? When they had multiple contacts other than you, why would -- did you have a personal relationship with

him, like you did with David Corn?

Mr. Baker. I had a personal relationship with Michael, and you'd have to ask him why he decided to pick me.

Mr. Jordan. Is Michael a member of the media?

Mr. Baker. I'm sorry. Say that again.

Mr. Jordan. Who is Michael Sussman?

Mr. Baker. He's an attorney in D.C.

Mr. Meadows. And who does he work for?

Mr. Baker. He works for Perkins Coie, a law firm.

Mr. Meadows. And so what you're saying is you were the intermediary between Perkins Coie and the FBI because of your personal relationship with that attorney?

Mr. Baker. I believe so. You'd have to ask Michael why he came to me.

Mr. Meadows. I get that. And so why would an attorney have this evidence at Perkins Coie?

Mr. Baker. He told -- he said that there had been -- I'm not sure exactly how they originally learned about that information, but what he told me was that there were cyber --

Mr. Meadows. I mean, is he a normal intel operative? How would he have come by this?

Mr. Baker. He told me that he had cyber experts that had obtained some information that they thought they should get into the hands of the FBI.

Mr. Meadows. So he -- go ahead.

Mr. Jordan. What was the information? Was it the dossier as well or something different?

Mr. Baker. No, no, it was not the dossier. It was another -- it was another matter. I mean, I don't know if I can talk about it. But I don't know what the Bureau wants to do. But it's another matter.

Ms. [REDACTED] Can we --

Mr. Baker. I'll just stop.

Ms. [REDACTED] Can we confer, just to be clear?

[Discussion off the record.]

Mr. Jordan. Mr. Baker?

Mr. Baker. Yes, sir.

Mr. Jordan. You were telling us that Mr. Sussman handed you some information or gave you some information that you then took to the FBI. What was that information?

Mr. Baker. It's unrelated to the dossier, it's another investigative matter.

Mr. Jordan. Unrelated to the dossier, but is it related to the Trump-Russia matter?

Mr. Baker. I'm going to defer to the FBI on that one.

Ms. [REDACTED] Congressman, any questions that relate to any information or evidence that impacts the Russia investigation will be an area that we will not allow the witness to answer because --

Mr. Jordan. I'm just asking if it deals with that. I'm not asking you to tell me specifically it is. Obviously, you're not going to do that. He's told me it doesn't deal directly with the dossier.

Does it deal with something else related to the Russia investigation?

Ms. [REDACTED] I will let him answer that question, but not go into anything related to what that information may be.

Mr. Baker. Yes.

Mr. Jordan. So the Perkins Coie directly -- a lawyer with Perkins Coie directly hands you information dealing with the Russia investigation, not with the dossier but with the Russia investigation, and this is Michael Sussman, who is the lawyer for the Democrat National Committee and Secretary Clinton's Presidential campaign, he's giving you information.

When did this take place again?

Mr. Baker. I can't remember specifically. Again, I believe there's a -- I referred this to the investigators, and I believe they made a record of it and put the -- there's evidence -- you know, they took information. There is an evidence record of what it is. I can't specifically remember when it was.

Mr. Jordan. Before the election or after the election?

Mr. Baker. I think it was before.

Mr. Jordan. You think it was before?

Mr. Baker. Yes, sir.

Mr. Jordan. So about the same timeframe. Are we talking October 2016? September 2016?

Mr. Baker. No, it was sometime earlier than that. I don't specifically remember. It was earlier than the David Corn conversation.

COMMITTEE SENSITIVE

Mr. Jordan. Was it between July 31st, 2016, and election day 2016?

Mr. Baker. I don't specifically remember. It could have been.

Mr. Meadows. You don't specifically remember. But obviously July 31st is a date that you know very well in terms of what happened on that particular date.

So was it before that date or after? Not specific. I mean, had you opened up the investigation or not when you got that information?

Mr. Baker. So I apologize, I, sitting here today, I don't specifically remember the --

Mr. Meadows. So do you have a calendar that would indicate this?

Mr. Baker. When Sussman came in? Probably.

Mr. Meadows. Can you get that to us? We need the time.

And, counselor, if you're going to go there, I would encourage you to get Dana Boente. Because, listen, we've gone through this before. We need timeframes. We need to understand it.

And this is a reasonable request of when this particular attorney obtained information from a contact that was actually the attorney for the Democrat National Committee. It is a critical timeframe. Was it a predicate or not to the investigation?

Ms. [REDACTED] Congressman Meadows, what I was going to say was we will look to see if there is a calendar. But if it is involved in any way as evidence with the special counsel investigation, you're right, Dana or the DAG will have to make that decision. But we will look to see if we have that.

COMMITTEE SENSITIVE

Mr. Meadows. And so we will get one of two things. We will either get a calendar, if it exists, of this day.

Ms. [REDACTED] Yes.

Mr. Meadows. Or we will get some kind of written response from the DAG on why we can't have this. Is this correct?

Mr. [REDACTED] That's correct.

Mr. Jordan. Mr. Baker, is it fair to say that any materials passed by the FBI general counsel automatically have a reliability and a level of credibility attached to them? You're the FBI's general counsel, if you're getting information from an outside source and passing it, on that means something.

Mr. Baker. I suppose so, Congressman.

Mr. Jordan. And people are going to take seriously when the FBI general counsel has some source giving them information related to a pretty darn important investigation, they're going to take that pretty seriously and follow up on it.

Mr. Baker. Within the organization, the Bureau?

Mr. Jordan. Yes.

Mr. Baker. Yes, I would say so.

Mr. Jordan. Okay. Is anyone else giving you information? So we know about Mr. Corn giving you some of the dossier. We know about Mr. Sussman giving you material not directly related to the dossier, but related to the Russia investigation. Anyone else give you information in the course of the Russia investigation?

Mr. Baker. I don't specifically recall sitting here today.

Mr. Jordan. No one else?

Mr. Baker. Not that I can recall.

Mr. Jordan. Okay.

You have anything more on this, Mark?

BY MR. BREITENBACH:

Q Sir, you had mentioned that there was a 302 that you know to exist with regard to an interview that the FBI conducted with you?

A With respect to David Corn. That I'm fairly confident about. I can't remember if they did a 302 on the Sussman thing because they may have just recorded it, put the material into evidence, and have records with respect to that. He gave me material and that was put into evidence.

Q Do you recall the reason why the FBI was asking you any questions at all in the first place? Did they articulate what their investigation was about?

A I knew what the investigation was about, sure.

Q And what was the investigation?

A What did I just say, Russia, I think? Yeah.

Q With regard to the 302 that they are interviewing you, are they interviewing you based off of the general Russia case or is this a separate case?

A A person gave me what I believed to be evidence. I provided that to the FBI. So the FBI wanted to have a record of the chain of custody of how that material came to the FBI so that it would be clear down the road where the evidence came from.

Mr. Jordan. Mr. Baker, was this the first time you had ever had this arrangement? Was this the first time Mr. Sussman ever gave you information that you passed on to proper people at the FBI?

Mr. Baker. Well, he had litigated against the FBI, so I had had conversations with him about that.

Mr. Jordan. I'm talking this kind of -- he's not in litigation with the FBI on this situation.

Mr. Baker. No.

Mr. Jordan. He's just giving you information because he's doing it out of the goodness of his heart as a great American citizen, it sounds like. So he's giving you that information and you're passing it on. Is this the first and only time that's ever happened?

Mr. Baker. In that context, yes. I mean, again, I think he told me things in the course of litigation, so he's informing me about things.

Mr. Jordan. Of course, that's normal.

Mr. Baker. So he's providing me with quote, unquote, information. But where he provided me something that I would regard as evidence this was the only time.

Mr. Jordan. Okay. Has anyone else ever done that, any other lawyer just call you up out of the goodness of their heart and tell you they're going to give you information that's going to help you with some ongoing investigation?

Mr. Baker. Not that I can recall. But I guess I would say lawyers would call me from time to time for the same kind of reason

you were talking about, if they could get to the general counsel and you could get the general counsel engaged on an issue --

Mr. Jordan. I get that.

Mr. Baker. -- then it's more likely to have something happened.

Mr. Jordan. Yeah, we get that. But this is the first time and to your recollection the only time an outside counsel had information and was wanting to make sure it got to the general counsel of the FBI, and it happened to deal with the Russia investigation.

Mr. Baker. I think that's correct. Sitting here today, that's the only one I can remember.

Mr. Jordan. Okay.

How much time?

Thank you, Mr. Baker.

[Recess.]

[11:22 a.m.]

EXAMINATION

BY MS. SHEN:

Q Good morning, Mr. Baker.

A Good morning.

Q My name is Valerie Shen. I am the chief national security counsel. Thank you very much for coming. National security counsel for the House Oversight and Government Reform Committee, and I will be helping lead some of the democratic staff questioning today.

And I have with me Congressman Raskin, who will do some lines of questioning. But first I just wanted to revisit something that was discussed in the last round. And I forgot to mention it, but I believe the time was 11:21 when we began.

So in the last round, the majority discussed evidence that Michael Sussen from Perkins Coie.

A Sussman.

Q Sussman.

A S-u-s-s-m-a-n.

Q And Mr. Sussman was an -- or still is, I think -- an attorney at Perkins Coie, is that correct?

A That is correct.

Q And how do you know Mr. Sussman?

A I can't remember when I first met Michael, but he and I both worked in the criminal division together at the Department of Justice, and we knew each other there and then had mutual friends. And so we

have just, our paths have crossed repeatedly over the years.

Q And what kinds of issues did he work on at the Department of Justice?

A I think he worked in the computer crime area.

Q Okay. And I believe last round it was mentioned that Perkins Coie, his firm, had represented the DNC and the Hillary Clinton campaign, is that your understanding as well?

A That is what they said. I have never confirmed that. I think I read that in the press.

Q Okay. So when Mr. Sussman came to you to provide some evidence, you were not specifically aware that he was representing the DNC or the Hillary Clinton campaign at the time?

A I don't recall, I don't recall him specifically saying that at that time.

Q Okay. When Mr. Sussman did provide you this evidence, did you react in any -- in any way with concern. Were you alarmed? Were you -- did you believe that it was inappropriate for him to come to you with this information?

A No, I did not believe it was inappropriate. It was a citizen providing information to the FBI about a matter that they thought had either to do with a crime or some national security threat. And so it did not seem inappropriate to me.

Q Okay. So I guess it is just my interpretation, but I believe last round it was somewhat implied that if he did have an association to the Democratic National Committee and the Hillary Clinton campaign

that that might lead someone to believe that something improper was done. And I wonder if you could just explain to me, you know, why your view is that it was not improper because, just the mere notion that someone who is a Democrat or Republican, you know, comes to you with information, should that information somehow be discounted or considered less credible because of, you know, partisan affiliation?

A Well, the FBI is responsible for protecting everybody in this country. Period, full stop. And we do that, without regard to who they are or what their political background is or anything else. If they believe they have evidence of a crime or believe they have been a victim of a crime, we will do what we can within our lawful authorities to protect them.

And so when a citizen comes with evidence, we accept it. That is my, just general understanding over many, many years. We, the Bureau, we, the Department of Justice. And so that is how I construed what Michael was doing. It was, he believed he had evidence, again, either of a crime or of a national security threat, and he believed it was appropriate to provide it to us. When he did, I didn't think there was anything improper about it whatsoever.

As I said, I recognized that I was obtaining evidence and I wanted to get it out of my hands into the hands of agents as quickly as possible. And that is what I did.

Q Okay. Thank you.

Mr. Raskin. Thank you, Mr. Baker.

In March of 2017, Director Comey disclosed in public testimony

that "the FBI had launched an investigation into the Russian Government's efforts to interfere into the 2016 presidential election, including 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," unquote.

Did you work on that investigation?

Mr. Baker. Yes.

Mr. Raskin. What was your role?

Mr. Baker. I was the general counsel, so I was responsible for advising the Director and other leaders of the FBI with respect to that investigation, interacting with the Department of Justice and then interacting with other levels of the FBI and importantly making sure that the other folks in the FBI were getting the legal services they needed from my office to support them in the investigation.

Mr. Raskin. And when did you stop working on it?

Mr. Baker. I would say when I left, when I left the position of general counsel, the first week of January of 2018, so I was still -- I was significantly less involved in it once the special counsel was appointed, but I still played a role in it from time to time after that.

Mr. Raskin. I would like to ask you some questions about the FBI's investigative techniques generally.

On May 18, 2018, the President tweeted "apparently, the DOJ put a spy in the Trump campaign. This has never been done before. And by any means necessary, they are out to frame Donald Trump for crimes he did not commit."

Are you aware of any information that would substantiate the President's claim that the Department of Justice, quote, "put a spy in the Trump campaign?"

Mr. Baker. So I just want to look at the FBI for a second here in terms of responding about these types of questions, recognizing that this is an unclassified and -- how do you want me to respond to that.

Mr. [REDACTED] Can you repeat the question?

Mr. Raskin. Are you aware of any information that would substantiate the President's claim that DOJ, quote, "put a spy in the Trump campaign."

Mr. [REDACTED] It is a yes or no question, and then when we get past that part, we can have a conversation, if necessary.

Mr. Baker. The answer is no, I am not aware of an effort to put a spy in the campaign.

Mr. Raskin. Does the FBI place spies in U.S. political campaigns?

Mr. Baker. Not to my knowledge.

Mr. Raskin. Are you aware of any information that would corroborate or substantiate the President's claim that DOJ is, quote, "out to frame Donald Trump?"

Mr. Baker. No.

Mr. Raskin. Have you ever been involved in any investigations where the FBI did not follow its established protocols on the use of human informants?

Mr. Baker. Not that I can specifically recall off the top of my

head. The FBI makes mistakes but we have mechanisms to correct -- to unearth and correct those mistakes. I am not saying the FBI never makes a mistake, I am just saying I don't, off the top of my head, I can't think of anything specifically in response to that.

Mr. Raskin. Have you ever been involved in the DOJ or FBI investigation that was conducted or initiated for a political purpose?

Mr. Baker. No.

Mr. Raskin. Have you ever been involved in the DOJ or FBI investigation that tried to frame U.S. citizens for crimes they did not commit?

Mr. Baker. No.

Mr. Raskin. In your time at FBI, are you ever aware of the FBI conducting an investigation to frame a U.S. citizen for a crime he or she did not commit?

Mr. Baker. No.

Mr. Raskin. Okay. On May 20, 2018, President Trump tweeted, and I quote, "I hereby demand, and will do so officially tomorrow, that the Department of Justice look into whether or not the FBI, DOJ infiltrated or surveilled the Trump campaign for political purposes and if any such demands or requests were made by people within the Obama Administration!" exclamation point, unquote.

At a political rally on May 29th, 2018, the President again stated quote, "so how do you like the fact that they had people infiltrating our campaign?"

To your knowledge, did the FBI or DOJ ever investigate the Trump

campaign, quote, "for political purposes?"

Mr. Baker. No.

Mr. Raskin. To your knowledge, did President Obama or anyone in his White House ever, quote, "demand or request" that the DOJ or FBI, quote, "infiltrate or surveil" the Trump campaign for, quote, "political purposes?"

Mr. Baker. No.

Mr. Raskin. And how would you or the FBI leadership have handled any requests of this nature to launch an inquiry for political purposes or to infiltrate for political purposes?

Mr. Baker. We would have rejected it out of hand and would have resigned, if compelled to do it.

Mr. Raskin. Okay. Good. I just have a few more questions here.

In March of 2017, Director Comey disclosed in public testimony that the FBI had begun an investigation into, quote, "the Russian Government's efforts to interfere in the 2016 presidential election," including, quote, "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," unquote.

When you first learned about a tip that the Russian Government could be coordinating with the Trump campaign, what was your reaction to that? Were you concerned or alarmed by it?

Mr. Baker. I was alarmed by that, yes.

Mr. Raskin. As the evidence developed to the point where the FBI

began an official investigation, did your thinking change in any way?

Mr. Baker. I am sorry, say that again.

Mr. Raskin. As the evidence developed to the point where the FBI actually launched an official investigation, did your thinking change? Had you grown more alarmed and concerned or less so?

Mr. Baker. I guess I grew more alarmed over time.

Mr. Raskin. How often does the FBI investigate the potential coordination between a presidential campaign in our country and a foreign adversary? Is that a common thing?

Mr. Baker. I think this is the first instance that I am aware of.

Mr. Raskin. And what was your estimate of the national security risk involved in such potential coordination? How important was the case?

Mr. Baker. I viewed the case as very important.

Mr. Raskin. Was it important to keep the investigation secret before the election?

Mr. Baker. Yes.

Mr. Raskin. And what steps did the FBI undertake to maintain the secrecy of the investigation?

Mr. Baker. So it maintained the classification on a lot of the material. We limited the number of people that we talked about with it -- talked about the investigation internally at the Department of Justice.

So we classified information and we restricted access to

information, and we treated it as a very sensitive matter.

Mr. Raskin. Did the investigation ever leak?

Mr. Baker. I don't think so.

Mr. Raskin. How would you articulate the importance of maintaining secrecy about that investigation?

Mr. Baker. It was critically important to give us enough time to be able to investigate without the Russians or anybody else understanding what it is that we were investigating -- understanding what we knew and what we were trying to do to collect information to ascertain whether these initial allegations that we received had any truth to them.

Mr. Raskin. Today, we know that the investigation began before the election in July of 2016, but no news of it leaked out to the press. You were aware of the investigation before the election?

Mr. Baker. Yes.

Mr. Raskin. And do you know whether Peter Strzok was aware of it?

Mr. Baker. Yes, he was.

Mr. Raskin. Lisa Page?

Mr. Baker. Yes.

Mr. Raskin. Andrew McCabe?

Mr. Baker. Yes.

Mr. Raskin. James Comey?

Mr. Baker. Yes.

Mr. Raskin. What about DOJ officials? Loretta Lynch?

Mr. Baker. I think she was aware. I don't recall myself having a conversation with her about it, but I think she was aware.

Mr. Raskin. Do you know whether Sally Yates was aware of it?

Mr. Baker. Same thing. My assumption was that she was aware of it.

Mr. Raskin. And John Carlin?

Mr. Baker. Same. I didn't speak to him about it, but I think he was aware.

Mr. Raskin. How many officials would you estimate were aware of the investigation before the election?

Mr. Baker. That is a hard one to answer. I would say a small number. Again, because we were trying to keep it quiet.

Mr. Raskin. Okay. And did you make any disclosures about this investigation to the press or the public before election day?

Mr. Levin. Just to be consistent, I am not going to let him answer any question about leaks.

Mr. Raskin. Got you. Okay. And I don't know if you can answer this one, but are you aware of any evidence of a so-called deep state conspiracy at the FBI to stop Donald Trump from being elected?

Mr. Baker. No.

Mr. Raskin. And are you aware of any evidence of Peter Strzok and Lisa Page, James Comey, or Andrew McCabe working to stop Donald Trump from being elected?

Mr. Baker. No.

Mr. Raskin. Okay. I have got no further questions.

Mr. Baker. Thank you.

BY MS. SHEN:

Q Just to circle back on the topic I left off of before, there were some discussion last round, again, that in Mr. Sussman providing you information in your capacity as general counsel that that was not the typical route for evidence. Is that about what you recall?

A Yes.

Q So regardless of not being the most typical route for evidence besides the FBI, when the evidence is provided to you, does the FBI have a process to evaluate the credibility of the evidence, to vet it as it would any other piece of evidence coming to the FBI?

A Yes.

Q Okay. So whatever evidence was provided to you would have been evaluated by the same individuals the FBI as through whatever typical challenges the FBI gets its evidence?

A Yes. Yes.

Q Okay. All right. So I would like to now just ask you a few more questions about your professional background, some detail. So I believe you mentioned that at the Department of Justice you worked in the Office of Intelligence Policy and Review from 1990 to 2007, does that sound right?

A 1996 to 2007, yep.

Q 1996 to 2007. Okay. And you mentioned this briefly before, but can you generally describe what the duties of the Office of Intelligence and Policy Review was?

A It was to provide legal and policy advice to the attorney general and other high ranking Department of Justice officials as well as the intelligence community on U.S. intelligence law and national security matters, counterintelligence, a whole range of national security-related issues.

Among other things, we were responsible for representing the United States before the Foreign Intelligence Surveillance court, which meant we prepared all the FISA applications and brought them to court, working with the various intelligence agencies.

So that was a substantial part of our responsibility.

Q Okay. And so you have personal experience drafting, preparing and managing FISA warrant applications before the FISA court?

A Yes.

Q Okay. If you had to estimate, how many FISA warrant applications have you worked on?

A So I did figure this out once. If you include preparing, reviewing, or supervising, it is over 10,000.

Q And do you also have personal experience working directly with the FISA court judges?

A Yes.

Q Okay. And if you have to estimate, again, how many interactions did you have in person or otherwise?

A Well, when I was doing this full-time, there were countless. I can't remember. I don't know how many. Every day.

Q And so if math serves me right, you served in the Office of

Intelligence Policy and Review for about 11 years?

A Yes.

Q Okay. And overall, how many years of FISA experience do you have?

A So I worked on -- well, working on FISA one way or the other, because I have also taught about FISA at law school as well, so if you include all that, it is, you know, roughly 20 years of experience.

Q Okay. And so FISA is one of your subject matter specialties?

A Yes.

Q And would it be fair to call you a FISA expert?

A Yes.

Q The name Office of Intelligence Policy and Review changed at some point. Or you mentioned it being merged into NSD, so is it the same functions but just merged in NSD?

A It is essentially the same functions. They reorganized it. But, for example, there is an Office of Intelligence within the National Security Division that handles all of the FISA matters today, which is a successor to OIPR. Other parts of OIPR have been broken up and put into different parts of NSD.

Q Okay. But the FISA component remains in --

A Remains. There is a core FISA component still at the National Security Division.

Q Okay. You served in OIPR which the Nation was attacked on September 11, 2001?

A That is correct.

Q And what was your role in that office leading our Nation's counterterrorism and counterintelligence activities in the aftermath of those attacks?

A I was the head of the office.

Q Okay. And generally, were there significant changes in how the U.S. approached counterterrorism or intelligence activities in response to the 9/11 attacks?

A Substantial changes.

Q Can you describe a few examples?

A Well, there were legal changes, there were organizational changes, there were, you know, new agencies were created, likes DHS, for example. There were new ways of doing business with the FISA court, there were new ways of doing business in terms of how the agencies interacted with each other, there were new ways of sharing information, sharing intelligence information, there were substantially more resources devoted to counterterrorism after 9/11, obviously.

So it was, I think it is fair to say, it was revolutionary in terms of the volume and scope of the changes that occurred.

Q And what kind of changes involved the FISA court that you just mentioned. How was that done differently?

A The volume of FISA applications went up substantially, the number of emergency FISA authorizations went up astronomically.

We had to then build a whole infrastructure to deal with all of that. The types of targets changed, the techniques, the surveillance techniques changed, the technology changed, the Internet became much

more prevalent, Internet-based communications became much more prevalent.

The demand for quick, rapid, information-sharing increased substantially. Then you had a whole other stream of things that was going on having to do with the Stellar Wind program that President Bush had authorized. And that changed a lot of the FISA practice in various ways.

It was -- the velocity and volume and variety of things was substantially different after 9/11.

Q So the FISA function significantly scaled up and became more aggressive after 9/11?

A Yes. Still within the law, but aggressive.

Q In December 2016, you received the George H.W. Bush Award For Excellence in Counterterrorism, the CA's highest award for counterterrorism achievements. Is that accurate?

A Yes.

Q Okay. And in January 2007, you received the NSA's Intelligence Under Law Award, the NSA Director's Distinguished Service Medal and the Department of Justice's highest award from attorney general Alberto Gonzalez. Is that accurate?

A Yes.

Q Where are you currently employed?

A I am currently employed at the Brookings Institution, I am a visiting fellow there. I am a visiting fellow at the Lawfare Institute. I am a lecturer on law at Harvard law School, and I also

have my own consulting firm.

Q What subjects do you teach at Harvard Law School?

A National security law.

Q So Mr. Baker, there have been a number of serious repeatedly made allegations that the FBI and Department of Justice abused its FISA authority in pursuing a surveillance warrant for former Trump campaign official Carter Page in October 2016.

As a long-term expert on FISA, I think it would be helpful if you would help us review and understand how that process actually works. So first, just stepping way, way back. What is the purpose? What is the typical purpose of a FISA surveillance warrant?

A A FISA authorization is an investigative tool. It is just a tool to provide the FBI or the intelligence community, more broadly, with foreign intelligence information related to a valid foreign intelligence objective. And it is a highly intrusive, potentially, tool that is used by the FBI, by the other parts of the intelligence community, and it is overseen closely by various elements of the government to make sure that it is being done for the right purposes.

And, I mean, that is the basic idea. It is a surveillance tool to provide the FBI with foreign intelligence information.

Q Okay. And so the purpose of a FISA surveillance warrant isn't directly for a criminal investigation or criminal purpose?

A Well, this is complicated to go through all of that, but the FBI -- the FISA -- the statute requires that there be a certification from a high ranking national security official like the FBI Director

that a significant purpose of the FISA application is to obtain foreign intelligence.

The line between what is criminal and what is intelligence sometimes becomes blurred and that was a big issue before 9/11 and even after 9/11, that has been sorted out basically now. But a significant purpose of the surveillance has to be for foreign intelligence purposes. And somebody high ranking has to sign their name to that purpose.

Q And so, generally, when does the FBI decide it should apply for a FISA warrant?

A It is one of the techniques that agents know about as part of their investigations. And they have to have probable cause in order to justify having a -- or seeking and obtaining a FISA authorization.

And so it is not typically the first things that is done in an investigation. You build up to that point. You collect other information, other evidence, if you will, and gather that and develop your probable cause. And then at some point in time, you seek the FISA when it makes sense in the investigation. There are a significant commitment of resources. FISA authorizations are significant commitment of resources by the Bureau, and so the managers, for no other reason, other than efficiency and appropriate use of resources need to think about the deployment of those resources in that way.

So they need to be serious about the investigation and do it at the right time when it makes sense for the investigation.

Q So if an FBI investigator thought they had, you know, clear,

strong case for probable cause, it would be pretty typical to want to pursue a FISA application as an investigative tool if the resources, equation made sense?

A Yeah, I think so. It is a normal tool that they worked toward. They don't always get it in every case. In fact, they don't get it in most cases.

Q Okay. Can you walk us through the process from when -- for when the FBI wants to apply for FISA warrant to surveil a U.S. person. So, you know, who makes that initial decision, who approves it, who is involved in that process?

A So it is a complicated process, I am probably going to miss some of the steps exactly. But the basic idea is that if an FBI field office, for example, is investigating a particular subject, and they determine that they want to obtain a FISA, that will be reviewed within the field office. It will go through the management chain in the field office through a variety of different supervisors.

It will also get a legal scrub in the field office. And then there will be most likely, interactions with the Office of General Counsel, FBI headquarters, depending on what type of case it is, counterterrorism or counterintelligence. And then it will -- once the FBI has decided that it wants to pursue this, then a request will go across the street to the Department of Justice to the Office of Intelligence.

It is possible that there has been some interaction with an assistant United States attorney along the way, but then it will get

a complete review at various levels within the Department of Justice.

Once everyone agrees that this is -- that we want to go forward, then there is a signature process that the agencies go through, and there are certain signatures that need to be obtained through the field office, through headquarters, up to and including the director or the deputy director of the FBI. They have to sign it. Then it goes across the street to the Department of Justice, and then has to go up to, either the assistant attorney general for national security, the deputy attorney general or the attorney general.

So there are a range of -- there are a lot of reviews with respect to this. And then once you are done with that, it goes to the FISA court, where the FISA court legal advisers typically look at all the applications, they scrub them. And then once they are satisfied, then it goes to a Federal judge, one of the judges on the FISA court who is a sitting Federal judge in a normal District Court in the United States.

And then that, the judge reviews it as well. So it goes through many reviews in the executive branch and in the judiciary.

Q How --

A Excuse me -- and all of this is subject to oversight by Congress.

Q How is the evidence usually collected to assemble and put into a FISA warrant application. Is there a specific investigation? Is it, you know, whatever you have from your previous investigation, is there a separate process for obtaining additional evidence?

A Well, you have to have a full investigation opened in order to obtain a FISA. So full investigation just means you have to have sufficient probable cause -- sufficient factual predication within, or pursuant to the attorney general guidelines in order to use that technique, because it is such an intrusive technique.

So -- and the FBI can gain the information from any lawful source to establish probable cause. But typically, there will be witness interviews, there will be a collection of, I don't know, phone records, physical surveillance, you might have, confidential source information. You might have information from a foreign partner. You could have intercepts from some other intelligence agency that may have been provided to the FBI. You have a whole range of different information, different types of information that could go into a FISA application.

Q Okay. And you mentioned, you know, quite a number of people and different components at different levels, so I understand you can only give me a rough ballpark, but, you know, how many people overall will be involved in, you know, putting together a FISA application that the FBI or the Department of Justice?

A I would be worried about giving you a number, but I don't know, just a rough estimate, at least 20 people, something like that, maybe. Sometimes more.

Q And typically, how long might a process like this take to assemble the information, you know, check all the, boxes, go through the signature process. How long will it take to assemble a complete

application?

A It depends. The cases are prioritized. And so the ones that are the most urgent -- so in a counterterrorism case where there is an imminent threat, the process can move extremely quickly, and it can be done all orally.

But typically, it takes much longer than that. It is hard to say. I don't know what the average number is right now. It can take days, weeks, sometimes months to move a FISA through, depending -- it depends on the nature of the threat and the strength of the probable cause. The bigger the threat, the stronger the probable cause, the faster it goes through the system.

Q And I believe you already listed, quite a few names off, but at the FBI who approves or signs off on a FISA application? I believe you mentioned the director, deputy director. Does it go all the way down to the field office?

A It would go through the Office of General Counsel. I, as general counsel, I didn't approve them all. There were a range of people in the national security law branch who could approve them, but there had to be some level of approval. There had to be approval at the headquarters level, in the field, in terms of the substantive agents. Yeah, I think that is it.

Q At what point, and is it based on evidence collection does the FISA warrant application go from the FBI to the Department of Justice for their review?

A Formally, there is a request that is sent across to the

Department of Justice -- I am sorry -- yes, to the Department of Justice, but there could be informal interactions from a very early stage where the Department of Justice is aware of a particular case.

We could go over and brief them on it and say, you know, here is this case, we are worried about it. We are working on the FISA. You should expect that soon. And they might work with us directly. So it is hard to give a crisp answer to that. There is a formal way to do it, but most times there are informal interactions with people because, again, it is important to think of a FISA as part of a case that everybody is working on. This is only one tool that is used.

But if it is an important enough case, a lot of people know about it.

Q Does the Department of Justice review to ensure that the FISA application is supported by credible evidence?

A They review it to make sure it is supported by credible evidence, that the techniques are techniques that can be approved, and that the purpose is a lawful purpose.

Q And how does the Department of Justice conduct these reviews?

A They examine the written materials that we send over. They question our folks, they ask for additional documents, send emails back and forth. They have robust interactions with the FBI over time with respect to what is going on with the investigations to satisfy themselves that they understand what is happening and why.

Q Would you say the Department of Justice treats this process pretty seriously?

COMMITTEE SENSITIVE

A Very seriously, yes. Very seriously.

Q How rigorous would you describe their --

A Extremely rigorous, yeah.

Q How often would the Justice Department send an application back to the FBI for, you know, some additional review, asking for additional documentation, information?

A I think it is constantly, yeah.

Q Okay. And so, would the Department send a FISA application back to the FBI if they believed a factual assertion was not sufficiently substantiated?

A Yes, but they would have, they would ask questions about it. It is not a formalistic. I mean, it can be formalistic in terms of documents going back and forth, but more often, I would think they would have emails and conversations if the Department had a concern about a factual allegation, whether it was true or not, they would ask to see the underlying material. The FBI would provide that to them. They would either be satisfied or not. And we would have ongoing discussions. And sometimes, there would be an agreement to go collect more information. And the FBI would do that before the FISA would move forward.

Q So would it be more like a routine back and forth over a number of different issues between Department of Justice and the FBI?

A There is a -- routinely, there is extensive interaction between the Department of Justice and the FBI with respect to what goes into a FISA application.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Q If the Department of Justice, informally or not, had flagged something they believed required additional substantiation, what might that look like? What would the FBI do to say, well, you know, here is another corroborating source, here is another -- like what kind of information would that require to address their concern?

A Whatever we might have. I mean, we would try to provide the Department with whatever they needed. Sometimes we would say, do you really need this, this might be really hard to get. We don't have it, or might not be able to get it in any circumstance. How important is it to the probable cause. You would have those kinds of discussions going back and forth. And maybe the -- sometimes, the Department would say, no, okay, we agree, we don't need that. It is too hard to get. Other times, they would push for it and we would get it. Sometimes we would be successful, sometimes not.

Q So I am trying to understand, just generally speaking, how the Department of Justice would -- and the FBI -- would evaluate the credibility of a factual assertion that came from a source or another right, because you have intelligence information coming from, I imagine, a spectrum of sources, different reliability, different motivations.

And so what is the process for looking at whatever factual assertion that source provided and then also evaluate the credibility of that underlying source to make a, you know, final determination?

A So, again, that is part of the standard review of FISA applications, to make sure that the FBI and the Department understand

COMMITTEE SENSITIVE

the credibility of any information that is going into, whether it is documentary evidence, information or information from a source.

So there is a, I guess you would say a scrubbing process of the sources to make sure that in this case, the Department, is satisfied that the source is reliable and that if there are any indications of -- or anything that might call the source's reliability into question, that that information is put forward in the application or is somehow otherwise made known to the court.

Q And can you provide me an example of what might call a source's credibility into question?

A Well, if the source had lied in the past, if the source had received substantial payments from the FBI or some other government agency. If the FBI investigation had revealed the source was involved in some type of illegal activity on the side, or things like that. The source was not complying with direction from the FBI, the handlers, that might be an issue that you would put into the application.

Q Does the FBI or --

A It might not even make it into the application because at the end of the day, the Department might assess that the source is not credible, and so you just don't even go forward.

Q Does the FBI or the Department of Justice provide an accounting or analysis of what the motivation was for the source to come forward with their information. And are there certain motivations that are, you know, deemed less credible, reliable?

A I mean, I guess it would be, if the motivation, if the

motivation impacted the assessment of the credibility, then you might put that in there. So, for example, an estranged spouse. If that was the source, then you would have to have a conversation about how important that was. You might discuss whether that was too revealing about who the source was to put that in there. But I have been involved in those kinds of conversations in the past. But something that indicated some animus against the subject that therefore might call into question the credibility of the source.

You would have a conversation about that, assess whether the source was reliable or not and then endeavor to put the FISA court on notice about that.

Q So if in the Bureau's judgment, a source had a personal motive against the target of the surveillance or related, that would be something that you believed should be noted for the FISA --

A You should certainly have a conversation about that and figure out whether that, you should proceed with the application or not and whether you should -- how you are going to tell the FISA court about this. And there is a variety of ways to do that to protect the identity of the source, but, yeah, if there is animus against the subject, then that is something that you have to think about seriously.

Q Are there cases where a source is judged to have animus against a subject, and is nonetheless deemed credible as well?

A Is to what?

Q I will just rephrase.

Are there cases where a source is judged to have animus against

the target of a surveillance but is nonetheless judged to be credible and reliable?

A I mean, I don't recall specifically a case from the past about that, but I would say in that kind of a circumstance, my recollection is we would put forward the reason that the source has the animus against the subject and explain that to the court. And then explain nevertheless, we believe the source is reliable for the following reasons.

So you are going to have to then focus on establishing why those -- establishing those reasons why you still believe the person to be credible even notwithstanding the animus.

Q So the animus is relevant to analysis but it is not a disqualifying in a vacuum?

A It is not disqualifying just automatically, I would say no.

Q How frequently would you say the FBI receives information from sources that are judged to have some personal motive in coming to the FBI?

A That is a hard question to answer. I am not sure I can answer that one. It is not infrequent.

Q So in the context of FISA warrant applications, can you explain what it means to verify information? I have heard that term used a lot, I guess more in the terms of, you know, unverified information, but I believe it is -- I believe it is a term of art, to some extent, in terms of there is a requirement to verify information. I was wondering if you can explain that to us?

A I am not sure exactly what that means in this context. I mean, we have developed processes over time to make sure that any allegation that is put into a FISA application is backed up by some type of underlying document.

So for example, we were talking about 302s before, so that -- which is a report of an interview -- so if you put an application -- if you put a sentence in an application saying this happened on this date, then we have a process to make sure, okay, where does that come from? Oh, it comes from this 302 where this witness said this. Or if you have information from a national security letter, a telephone record, you want to make sure you have that.

So in terms of verifying the information, what I am thinking about is we make sure when we have procedures to make sure that all of the factual assertions in the application are backed up by some underlying document to support them.

Q So if you are verifying something, you are able to match it to the underlying source or documentation, but that is not the same thing as saying that factual assertion is already proven to be true?

A Correct.

Q Okay?

A It is just this is where it came from.

An important thing to remember is FISAs take place in the middle of an investigation. And so you are still learning about what is happening.

You put forward the information that you have at the particular

time that you have it, but you could be wrong. It could be that you are completely wrong about what you have concluded with respect to this person.

But that is what you are trying to find out. And if you are wrong, then you will conclude the investigation and no further action follow. If you are right, you will keep going and then you will deal with whatever happens.

But that things turn out not to be the case that you put forward in the application so long as you believe them to be truthful at the time and had support for that, that happens.

Q So in a FISA application, the Bureau or the Department is often put together their best intelligence assessment at the time, but as you are saying some things might prove --

A To be wrong.

Q -- to be wrong later?

A Yes.

Q And if that were the case, it wouldn't really be fair to say the Bureau or the Department is trying to trick the FISA court?

A No.

Q So my current understanding is that under the FISA statute, a warrant can be obtained to conduct electronic surveillance on a U.S. person if they can show probable cause that the target is an agent of a foreign power. Does that sound --

A That is correct.

Q Okay. So how does the FBI determine whether there is

probable cause that someone is an agent of a foreign power? What kinds of things would they look at?

A So you look at the statutory definitions of agent of a foreign power. And one of the important things there is it requires that when it pertains to U.S. persons that their activities are engaged in knowingly in support of that.

So you are going to look at everything we can collect short of a FISA about that person lawfully and assess whether the person fits within that definition, and then focus on whether or not there is evidence/information that the person knows that he or she is involved in these types of activities.

So you try to marshal all of the physical surveillance, documents, interview witnesses, sources, intelligence from other agencies, intelligence from foreign partners, everything you can possibly get to bring to bear on the question of whether this person is a legitimate target under FISA.

Q Could referring to one self as an informal adviser to a foreign government be considered evidence of someone knowing to be an agent of a foreign power?

A That would be relevant.

Q Can you explain briefly what minimization procedures are in the context of a FISA warrant application for a U.S. person?

A Minimization procedures are a critical protection that exists in the statute and have to be employed in each application in order to protect the privacy of Americans, which is the one of the most

important points of FISA. And they are part of what make FISA applications reasonable under the -- FISA authorizations reasonable under the Fourth Amendment.

So they require the government to basically reduce the amount of information that it acquires, retains, and disseminates about a U.S. person consistent with the foreign intelligence needs of the United States.

Q So would that prohibit, you know, their names, you know, any kind of personal identifying information, what would the restrictions be in terms of describing a U.S. person in vague terms? How does that work in practice?

A It depends. So there are standard minimization procedures that exist that the government has to follow. There could be additional minimization procedures that the court employs in any particular case, but you have to -- it is contextual.

So it depends upon who you are disseminating information to, why they need that information, and that the information is foreign intelligence -- essentially, foreign intelligence or evidence of a crime.

So you are giving it to an authorized recipient, and the disclosure of the identity, let's say, makes sense in this context because it is part of what the foreign intelligence information is or the evidence of a crime, and you are giving it to somebody that you assess needs to know that information to execute their duties.

Q So it is on a need-to-know basis?

A Well, any classified information is on a need-to-know basis but yeah, the minimization -- the dissemination is contextual so you don't willy-nilly give out U.S. person information. You try to restrict it whenever possible.

And agencies have adopted a variety of different policies and procedures in order to do that but, again, the key thing is whether the information is foreign intelligence, evidence of a crime or necessary to understand the foreign intelligence or its importance.

And if it fits within that and it is under U.S. person identity, then you could disclose it to somebody who needs to know that and who has the appropriate clearances.

Q Under what circumstances would it be appropriate to use the name of a U.S. person in a FISA application?

A If it was foreign intelligence, you needed to know that, you know, the spy for the foreign country we think is this person and, you know, two people are talking on the phone and they are plotting, I don't know a terrorist attack or they are plotting some espionage thing, and so you need to identify to somebody else in the government -- like these two guys and here is their names, they are U.S. persons, they just plotted to blow up something, some building somewhere right?

Q So U.S. persons, for example, that were, you know, part of a plot or the target of the surveillance, those would be the types of U.S. persons that --

A They certainly could be, yeah. And if they are plotting to blow something up in the United States, absolutely.

Q Would it be appropriate to use the name of a U.S. person merely because they are running for political office in the United States?

A Well, again, you would not disclose that unless you assess that that person's identity was, itself, foreign intelligence information, evidence of a crime, or necessary to understand the foreign intelligence or its importance. It has to fit within one of those categories or you should not be disclosing that person's identity.

Q Okay. Can you describe what -- can you describe your understanding of what the term unmasking is and how that relates to minimization procedures. I obviously heard it used a lot and want to understand it more precisely.

A Yeah. It is a bit confusing, but the basic idea is as a standard practice certain governmental agencies have adopted this process with that when they produce a report that is widely distributed that goes to a lot of different people, that they will, instead of putting the U.S. person's name in the report, they will use a euphemism, like U.S. person number 1 said blah blah blah to U.S. person number 2.

And those two identities will be -- something else about the information is important, something else about the information constitutes foreign intelligence, but the agency that is disseminating it has assessed that the identity of the U.S. person itself is not foreign intelligence information or evidence of a crime as I have

described.

So that gets disseminated. So that is quote-unquote "masked." Agencies that receive that, if they say, whoa, this is really important to us. We need to know what actually person's name is. They would go back to the originating agency, put in a request for that, ask them for that, and then the agency would follow its procedures.

If they assess yes, you know, the FBI needs to know that, so they will provide the FBI actually with the U.S. person identity. They will therefore, unmask it.

Q Okay. So unmasking is more in the context of disseminating information?

A Disseminating information and, in particular, from certain agencies that I will refrain from identifying here, but it is not the FBI. It is other intelligence agencies have a practice of, quote-unquote, "masking" U.S. persons' identities.

Q Circling back to minimization procedures, if the FBI and the Department of Justice were putting together a FISA application and they used the names of U.S. persons that, you know, contextually was not originally discussed, like evidence of a crime, or, you know, you really needed to know to understand the surveillance, would the -- I guess, the Department or the FISA court, would they request that that name not be used? Are there protections?

A Yes, I mean, you put the names in the FISA application if you think you need to because, again, it fits within the dissemination

rules and you think the court needs to know that information.

But other times, you assess, when you are writing the application, that no, we don't need to put that in. It is just gratuitous. And so we will use the same kind of the thing, U.S. person number 1, or some other type of identifier.

Q Does the FISA court also make an analysis as to whether certain U.S. names are in accordance with the minimization procedures?

A It could with respect to the -- it could with respect to anything having to do with FISA. They can ask for anything. They can demand anything from any of the agencies.

Typically, though, what happens is that the -- under the procedures and under the protocol that the courts are well aware of -- the Department of Justice goes out to the FBI field offices and headquarters and conducts, quote-unquote, "minimization reviews" to make sure that we are following the procedures, generally speaking.

So they pull cases, they look at what we have disseminated, and so on, and go through that. And they make a report back to the attorney general, to the FBI and importantly, to the court.

Q I think you mentioned that as general counsel you did not personally sign off on FISA applications?

A That is correct.

Q Is that correct? Okay. Have you ever personally signed off on a FISA application before?

A As general counsel of the FBI? I don't know if I actually signed the memos. I think the answer is -- I don't recall ever actually

signing the memos.

Q Did you sign off on any FISA applications in your capacity at the Department of Justice?

A Again, as a lawyer, I sign some of them and I approved other ones going to court. And when I was there, they were all of prepared under my supervision.

Q Okay. Just over the years with the different FISA applications you have worked on, are you aware of the Justice Department ever signing off on a FISA application that was not sufficiently substantiated by evidence?

A That was not supported by probable cause?

Well, there are some when -- so the obligation, I would think, of the Department of Justice is to believe that there is probable cause to support the application when the attorney general signs it, because the attorney general is signing that he or she has assessed that it meets all the requirements of the statute.

So therefore, the answer should be yes. There are cases where the probable cause is stronger and where it is weaker. And so my practice was if I thought that I was bringing a case that I thought was weak to the court, I would tell the court about that. And I would say, look, I think this meets the requirements of the statute, but I understand that it is weak and here is the reasons why. And I would inform the court fully about the application and explain it all to them.

So, but I would not -- I would not have allowed a FISA application

to go to court that I did not think met the requirements of the statute, meaning that I thought there was probable cause.

Q And I believe you said earlier that most FISA applications do not get approved by the court, is that --

A No, most do get approved.

Q Most do get approved?

A Yeah, most do get approved by the court.

Q So we have already tread this ground a little bit, but why is it important that the Justice Department apply a rigorous level of scrutiny to the FISA application before it is sent to the FISA court? Why not just, you know, try anything?

A Because the officials of the Department of Justice have taken an oath to the Constitution and that includes their responsibilities as part of the executive branch to take care that the laws are faithfully executed. Congress has enacted this statute to regulate the government's use of a highly intrusive surveillance, a set of highly intrusive surveillance techniques. And so the government has an obligation to do its utmost to make sure that it complies with the statute.

Congress has constructed a statute that establishes an ex-parte relationship between the government and the court and under the standard rules of ethics with respect to attorneys, for example, attorneys have the highest ethical responsibilities in that kind of context, so they have an extremely high responsibility to make sure that the court is informed of all material matters with respect to the

matter that you are presented to the FISA court.

It is important to maintain -- for the intelligence community to maintain the trust and confidence of the American people over the long-term, and so they all have a very, very important responsibility for their agencies to make sure that the public and Congress have confidence in what they are doing.

Q Have you ever been part of an investigation where the Department of Justice or FBI used politically biased unverified sources in order to obtain a FISA warrant?

A Politically biased un --

Q Verified sources.

A Not that I recall.

Q Are you aware of any instances where the Department of Justice or FBI manufactured evidence in order to obtain a FISA warrant?

A No, I don't believe that I have ever heard of such a thing. There are times in the past when inaccurate statements were made to the FISA court for a variety of reasons. And when the government found out about that, we took steps to correct the record and do what needed to be done.

Q But you are not aware of any attempts by the Department of Justice or the FBI to intentionally mislead the FISA court judges in an application by omitting or manufacturing evidence?

A The cases that I am talking about where inaccurate information was provided, off the top of my head, I can't recall any instances where it was later determined that it was intentional. It

was maybe sloppy or somebody, for whatever reason, confused something or made a mistake or whatever, but I don't recall instances where somebody intentionally made a misrepresentation to the FISA court.

Q Okay. So I think earlier we already talked about how the Department has a, you know, pretty difficult and rigorous internal process for FISA warrant applications.

Are there a separate set of additional protections when the target is a U.S. person?

A U.S. persons get substantially more protection under the statute. Under the minimization procedures, the minimization procedures only apply to U.S. persons. You don't have to minimize information of non-U.S. persons. So there is some policy variance to that, but in any event, the statute doesn't require it. And so therefore all the way through the system, in attorney general guidelines, in internal FBI procedures, there are enhanced protections for U.S. persons.

Q Okay. And so the foreign intelligence surveillance court would apply a very strict level of scrutiny before approving a FISA warrant on a U.S. person?

A They apply -- yes is the answer.

Q Okay. And would it be difficult for the FBI or Department of Justice to intentionally try to trick the court into approving a FISA warrant that did not have sufficient evidence?

A Such a thing wouldn't make its way through the system because somebody would ferret that out in the process. And I seriously doubt

that it would make its way to the FISA court. Because the FBI doesn't want to -- would not want to do that with respect to the director who is going to sign these things, nor to the Attorney General. And the Department of Justice would be very protective of the Attorney General and try to ferret out anything like that. And I think it would be kept away from the FISA court in the first instance.

Q So just by the nature of the process, number of people involved, the standards, it would be extremely unlikely for an intentionally misleading application to make it all the way through the process?

A That would be my assessment.

Q Okay. All right. I think we are close to the end of our session, so we will just stop there. The time is 12:18.

[Recess.]

Mr. Meadows. I want to follow up just briefly on some of the FISA questions that the minority were just asking, just for clarification.

So are there two parameters on how and if a FISA warrant gets issued or just one?

I mean, what are those two criteria that may exist in terms of actually issuing a FISA warrant?

One, obviously, is foreign intelligence. Is the second one criminal activity? I mean, is that part of it?

You are the expert, is what I understand. And --

Mr. Baker. So that line is difficult to ascertain, especially if you think about a terrorism case. I will take it out of the context

we have been talking about.

A terrorism case. Well, somebody engaged in terrorist activity, us wanting to know about it so we can prevent the terrorist attack from taking place, that is clearly foreign intelligence information, but they are also engaged in crime at the same time.

And so what the court decided back in 2002, I guess it was, was that these lines are too fuzzy. And so under the Constitution, so long as a significant, a significant purpose -- not the only purpose, not the sole purpose, or not even a primary purpose -- so long as a significant purpose is to obtain foreign intelligence information, and that is something different than evidence of a crime, then the government, under the Fourth Amendment, can seek these authorizations pursuant to the FISA statute and therefore FISA is constitutional.

Mr. Meadows. And you would say that there is not a quantifiable number to say this is significant? I mean, how would a lay person like me say this is significant?

Mr. Baker. Yeah, I think it is the plain meaning of that term. I think you just --

Mr. Meadows. Well, that is the whole point. It doesn't have a plain meaning.

I mean, what is significant to you and significant to me may be two different things.

I think it is significant that you are here today.

Do you think it is significant that you are here today?

Mr. Baker. Yes, sir.

Mr. Meadows. So we both can agree on that one. But there are different times when that term is ambiguous. Would you agree?

Mr. Baker. Yes.

Mr. Meadows. All right. So if we are looking at the FISA, and I guess, you know, the minority was asking, you know, in terms of political bias and if there is ever any time that you could recall, and you said no, is that correct?

Mr. Baker. Whatever their questions were, I think I responded no, yes.

Mr. Meadows. Well, I guess.

Mr. Baker. Or no to the most --

Mr. Meadows. I am looking at, I guess, the unclassified part of the FISA application, and on Page 17, it goes to great gyrations, in my words, to say source one owns a foreign business in financial intelligence. And it goes back and forth about, that candidate one might have, you know, source one might have been doing research into candidate one, and they were likely looking for information to discredit candidate one.

Why would you use those types of ambiguous terms in a FISA application?

Mr. Baker. You mean, like the reference to candidate one and that kind of thing?

Mr. Meadows. Yeah. And not be specific. Because obviously here today, we have talked about specifics. We talked about your getting information from Perkins Coie. We talked about you getting

information from David Corn. But none of that seems to show up.

Would that not be relevant information that a FISA judge would want to see?

Mr. Baker. So if the application you are referring to, just for the record, is the Carter Page one, I assume.

Mr. Meadows. Right, yeah.

Mr. Baker. And so --

Mr. Meadows. And did you read the whole Carter Page FISA application?

Mr. Baker. I -- my recollection is that I read the factual part of the initiation of the Carter Page FISA. I am not going to say I read --

Mr. Meadows. So for a layman that doesn't understand, what is the factual part?

Mr. Baker. So the statute requires there be all kind of legal assertions, description of techniques, minimization procedures. There is orders that go along with that, and so on. That is pretty standard, quite frankly, and there is a mechanism to deal with that.

The thing that I was focused on is there is also, by statute, has to be a set of factual assertions under oath by, in this case, the FBI.

So it is basically what are the facts, what is the probable cause. And so the section that I was focused on is what is the probable cause with respect to --

Mr. Meadows. So you only read the probable cause part?

Mr. Baker. That is my recollection.

Mr. Meadows. That is your recollection.

Mr. Baker. And only the initial --

Mr. Meadows. So how would you know that is the only relevant point in the FISA application that would need to be questioned? Because I understand, it has to go before you before it went to anybody else. So you are the one that every FISA application -- no?

Mr. Baker. No. I did not -- at that point in time when I was at the FBI, most of the FISA -- almost all the FISA applications did not go through me. They were --

Mr. Meadows. So why did this one go through you?

Mr. Baker. Because I was aware of it. I was aware of the investigation --

Mr. Meadows. How did you become aware of it?

Mr. Baker. I learned of -- so I was aware when the FBI first started to focus on Carter Page, I was aware of that because it was part of the broader investigation that we were conducting. So I was aware that we were investigating him. And then at some point in time --

Mr. Meadows. But that was many years ago. That was in 2014. Or are you talking about 2016?

Mr. Baker. I am talking about 2016 in the summer.

Mr. Meadows. Okay.

Mr. Baker. Yeah. And so I was aware of the investigation, and then at some point in time, as part of the regular briefings on the case, the briefers mentioned that they were going to pursue a FISA, and so as that progressed and as I was briefed on that as time went

by, at some point in time, I asked -- I think it was my deputy, Trish Anderson -- when this thing is ready or when it is moving through the system, I don't want to see it at the end, like when it is about to go to the director of certification because then it is hard to make changes then.

So I wanted to see it when it was gelled enough but before it went through the process and before it went to the director, I wanted to see it and I wanted to read it, because I knew it was sensitive.

Mr. Meadows. So is that why you took the abnormal or unusual step in this particular situation, was because it was sensitive?

Mr. Baker. Yes.

Mr. Meadows. So you actually got involved because you wanted to make sure that, what?

Mr. Baker. I wanted to make sure that we were filing something that would adhere to the law and stand up over time.

Mr. Meadows. So you wanted to make sure that everything was the normal protocol and done properly?

Mr. Baker. The two things that I was focused on in this case were the probable cause and the description of the source. And I guess the third thing would be the foreign intelligence purpose. I wanted --

Mr. Meadows. So the probable cause -- and you said you were working on that in the summer of 2016 and that was part of a much broader investigation. So it had nothing to do with the Trump campaign at that point?

Mr. Baker. I am not sure I know what you mean. I am sorry.

Mr. Meadows. Well you said a broader investigation. I mean if you are asking for a FISA warrant and you are talking about probably cause, you said it was a part of a broader investigation, obviously, that broader investigation could not -- may be mutually exclusive of the Trump campaign if it is dealing with Carter Page?

I mean, what broader -- those were your words not mine. So what broader investigation were you talking about?

Mr. Baker. So I thought about this as, to me, this was always about Russia. Everything we did had to do with Russia, and what were the Russians up to, what were the Russians doing, how were the Russians engaging with Americans, if at all, and what might some Americans be doing in support of -- knowingly, in support of Russian efforts, or being fooled and duped into dealing with the Russians in some way.

And so we were trying to figure out exactly what happened. So I was thinking about that. And then, so we had a very broad investigation of Russia and trying to identify and thwart their activities. And then certain Americans came to our attention for a variety of reasons -- I am happy to talk if you want to. Among them was Carter Page, and then among the various investigative techniques that were being used with respect to him was this FISA.

And so I wanted to review the FISA because I knew it was part of that larger --

Mr. Meadows. Yeah, but Jim, don't you see how that -- this unique situation where you actually took, according to your words, you took possession of evidence. Do you normally take possession of evidence?

Mr. Baker. No.

Mr. Meadows. Why would you take possession of evidence here? Why would you not have said, You know what, Peter Strzok is lead investigator. Let me have him reach out to you?

Why would you take possession of that evidence?

Mr. Baker. Well, on the one -- so, on the one hand, I wasn't -- I don't remember -- I don't remember knowing why Michael Sussman, for example, was coming into the office. He came into --

Mr. Meadows. I am not asking about his motivations. I am asking why, why -- you know, this is not your first rodeo.

Mr. Baker. Yeah.

Mr. Meadows. You are an experienced -- in fact, when I read the stuff, I try to figure out whether you are a good guy or a bad guy, because there are times when I can make the case for both.

I mean, just bluntly, reading through this stuff, it sounds like at times you are telling him to be cautious and other times, you are telling him to go for it. And I am just trying to get to the truth there. And that is just being blunt, and I find that that is the best way to be in these situations.

But I am troubled by abnormal activity that a seasoned general counsel for the FBI takes possession of evidence from what is obviously a political -- has political connections.

Why would you take possession of that in this unique situation?

Mr. Baker. Sussman showed up and I didn't know what he was showing up with. He handed me materials. And so --

COMMITTEE SENSITIVE

Mr. Meadows. So he showed up unannounced without --

Mr. Baker. No, no. He did not show up -- he made an appointment.

Mr. Meadows. And he made an appointment. Did he tell you what he was coming over with?

Mr. Baker. I can't remember that. I don't think he did, because when he showed up with materials --

Mr. Meadows. Because I got something you need to see?

Mr. Baker. Yeah. I want to come in and talk to you about something. And I knew Michael, and it sounded serious. And so I am like, okay, I am not going to turn away somebody that wants to come and talk to me.

Mr. Meadows. But, again, the FBI headquarters is not a big place. Why didn't you just say, great, Michael, I will tell you what, let me call the lead investigator up and bring him in.

I mean, do you not see why it would be troubling to a guy like me to say this is abnormal, why would you do this uniquely?

Mr. Baker. All I can tell you, Congressman, is that he gave the material to me, and as soon as he left, I called the investigator -- I don't know if it was Pete Strzok or Bill Priestap -- I called one of those guys, to the best of my recollection, and said this just happened. What do you want to do this about? Please come and get this --

Mr. Meadows. And you described what was in the document?

Mr. Baker. Describe what happened. And I wanted -- I got rid of the material as quickly as I could and put it into their hands.

Mr. Meadows. Did you describe the document to them?

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. Baker. I described what he had told me about the document, because I don't think I read through it. I just, based on what he told me, I knew that I had to alert other people promptly to what this was.

Mr. Meadows. And so within hours, not days.

Mr. Baker. Within minutes.

Mr. Meadows. Within minutes. And --

Mr. Baker. I at least reached out for him. I don't know if I literally --

Mr. Meadows. So you don't, so you don't recall whether it was Bill Priestap or Peter Strzok or whom else?

How many other people did you give it to?

Mr. Baker. No, no, it was -- I only had one set of the materials -- we will talk about the Sussman materials -- I only had one set of those materials. And I put them in the hands of somebody in the counterintelligence division.

Now, I think I talked to Priestap. He may have told me to get to it Agent X, or somebody. I mean, I may have walked it down there. I don't remember. Or he may have sent somebody to get it, but I quickly got it out of my hands and into the counterintelligence division.

Mr. Meadows. So was there a followup interview with the person that gave -- that you gave it to with the person that gave you the information with the attorney?

Mr. Baker. Did they interview the attorney?

Mr. Meadows. Yeah.

Mr. Baker. I don't recall that.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. Meadows. Do you not find that curious? I mean, here is the thing, is you are getting information that is coming from someone who is being paid, probably, by a political operative, and the veracity of that information should be, at least, acknowledged or tried to be verified, wouldn't you think?

Mr. Baker. Oh, absolutely. And we were --

Mr. Meadows. So why would they not have had an interview with that individual? Were you the go-between so that they didn't have to have that?

Mr. Baker. No, no. After the --

Mr. Meadows. How do you know that?

Mr. Baker. Well, they -- maybe I misunderstood your question. I don't recall myself participating in an interview with Michael with the FBI present. I don't recall facilitating that.

Mr. Meadows. Yeah. Are you aware of any interview that they had with, you know --

Mr. Baker. I am not aware of that.

Mr. Meadows. I am not either. I mean, we have gone through it.

Wouldn't you find that finding the source of this evidence and the veracity of it and where it came from and how legitimate it is, would you not think that that would be a question that the FBI would normally want to ask and have answered?

Mr. Baker. My understanding was that the counterintelligence division did extensive investigation of that material with a --

Mr. Meadows. But not of the individual?

COMMITTEE SENSITIVE

So what if that individual actually engaged in an illegal act in order to get that information?

Mr. Baker. It is logical to me that we would go back and interview them --

Mr. Meadows. It is logical to me, too.

Mr. Baker. That it wasn't done --

Mr. Meadows. And it is troubling to me that it didn't happen.

Mr. Baker. I am not sure that I knew that it didn't happen until now.

Mr. Meadows. Okay.

Mr. Baker. Once I passed it off, it was --

Mr. Meadows. So let me ask you this. This unusual way that a couple of pieces of evidence from David Corn and from the attorney at Perkins Coie got into the FBI was unusual.

Were you aware of the unusual steps that the FBI was using with regards to Bruce Ohr and other information coming in after the November elections?

Were you aware that there was a back channel through Bruce Ohr who would interview with Christopher Steele and Glen Simpson and then communicate that information to Joe Pientka who would get it to Peter Strzok and Lisa Page.

Were you aware of that?

Mr. Baker. I don't remember the details as you just described them.

I was aware -- I heard in briefings, conversations, about the

COMMITTEE SENSITIVE

FBI's interactions with Bruce Ohr. But they weren't something that I focused on --

Mr. Meadows. What were the nature of those briefings?

Mr. Baker. I beg your pardon?

Mr. Meadows. What were the nature of those briefings.

Mr. Baker. These were the sort of the regular briefings that we would have for the Director, for the Deputy Director, the other leadership, by the team that would come and update us on what is going on with the case.

Mr. Meadows. So on a regular basis, you were being briefed that indeed Bruce Ohr was having contacts with these sources and bringing it into the FBI. And you thought that that was appropriate?

Mr. Baker. I don't remember the specifics of what you just said being discussed. I remember Bruce's name --

Mr. Meadows. I am not talking about specifics. I mean, I am talking about -- what I am saying is, you were aware of Bruce Ohr being involved in evidence collection. Is that correct?

Mr. Baker. I am not sure that I recall that. I don't recall that. What I --

Mr. Meadows. You are the general counsel, you had to sign off on stuff. So you are saying that you did not know that? Because either way is troubling.

But you are saying -- you are giving -- your testimony here today is that you did not know that Bruce Ohr was having regular contacts with sources and conveying that information to the FBI?

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. Baker. I was aware that Bruce Ohr had some type of relationship with the source, and that somehow through that mechanism, the details of which I did not know, information was flowing to the FBI. From the source through Bruce to the FBI.

Mr. Meadows. So what you are saying is --

Mr. Baker. -- or directly from the source.

Mr. Meadows. I am sorry. I didn't mean to interrupt. Go ahead.

Mr. Baker. Sorry. At some point in time, it became -- my understanding was it kind of came in both ways.

Bruce and -- was providing information from the source and the source eventually was providing it directly to the FBI or something like that. I didn't, myself, understand the specifics of how that was exactly working.

Mr. Meadows. But as general counsel, would that not be under your purview to oversee?

I mean, would you not have a concern with protocol, and all of a sudden, you have got the DOJ doing the investigation? I mean, why would the DOJ be doing the investigation and not the FBI?

Mr. Baker. It was my understanding that some -- Bruce had some type of pre-existing relationship with the source. That is what I understood at the time.

Mr. Meadows. And so because of a personal contact, the FBI made a conscious decision to allow that to happen?

Mr. Baker. I guess you would say, I guess the answer is yes. The FBI leadership was aware of the relationship between --

COMMITTEE SENSITIVE

[12:48 p.m.]

Mr. Meadows. So who at DOJ was aware of that?

Mr. Baker. I don't know.

Mr. Meadows. So you are using DOJ officials without the knowledge of the hierarchy at DOJ? That seems strange. Why would you do that? Is that the normal way that you would conduct an investigation?

Mr. Baker. No, it is not normal, but I did not know --

Mr. Meadows. Have you ever known it to happen before?

Mr. Baker. Not that I can think of.

Mr. Meadows. And so let me ask you this, Christopher Steele's relationship was closed by the FBI, was it not?

Mr. Baker. That is my understanding.

Mr. Meadows. And why was it closed?

Mr. Baker. I think it was because he was not following direction.

Mr. Meadows. All right. And so so it was closed for cause?

Mr. Baker. Yes, I guess you would say that.

Mr. Meadows. So you are saying that you used an informant, and they were closed for cause, and yet, now you are aware that they were now using another way to use that same informant after they have been closed for cause?

Mr. Baker. I am saying that I don't know exactly what the nature and scope of the interactions between Bruce Ohr, Christopher Steele, and the FBI were. I just don't know all the details of that. I am sorry.

Mr. Meadows. I understand you don't know the details, but we have got your name on emails where honestly where you were copied on information, so to say that you didn't have any knowledge it is not supported by the facts. So you are saying today that you actually had some knowledge, you just didn't know the details?

Mr. Baker. That is what I am -- that is what I recall right now.

Mr. Meadows. Okay. So as general counsel you have a source that has been closed for cause, and all the sudden that source gets to be -- continues to be used not once, not twice, but multiple times after that. Does that not break FBI-DOJ protocol for how you handle a confidential human source?

Mr. Baker. I would have to look at the guidelines for --

Mr. Meadows. I have looked at the guidelines. So what would it surprise you to know that that would be breaking protocol, your own protocol within the FBI and DOJ? Would it surprise you?

Mr. Baker. It wouldn't surprise me.

Mr. Meadows. Okay. So I said I was going to yield to the gentleman from Ohio. I am going to let him follow up and then I will ask a few others. Thank you for your candor.

Mr. Baker. Okay.

Mr. Jordan. Thank you, Mr. Baker. So just so I understand, Mr. Sussman contacted you, he reached out to you first, that was the direction, Mr. Sussman?

Mr. Baker. Yes.

Mr. Jordan. Okay. And then how then many meetings did you have

with Mr. Sussman?

Mr. Baker. So there was one meeting when he handed me information, told me what it was about, and then I passed it off as I just described.

There may have been a follow-up meeting or a conversation because he told us that some elements of the press had this information as well and were going to publish something about it.

Mr. Jordan. So there were two meetings with Mr. Sussman?

Mr. Baker. At least a meeting -- there was one meeting in person for sure, and I can't recall whether --

Mr. Jordan. One meeting when he handed you a document or documents?

Mr. Baker. Yes. And then the next interaction --

Mr. Jordan. Was it plural? Was it several documents or one documents?

Mr. Baker. It was like -- my recollection was it was a stack of material I don't know maybe a quarter inch half inch thick something like that clipped together, and then I believe there was some type of electronic media, as well, a disk or something.

Mr. Jordan. Documents and some kind of thumb drive or some kind of --

Mr. Baker. I think that is right.

Mr. Jordan. Okay. You get that at the first meeting. There's a subsequent meeting where you tells you, hey, the press has some of this information, they are going to print it?

COMMITTEE SENSITIVE

Mr. Baker. Yes, there is some subsequent conversation like that.

Mr. Jordan. And did he tell you who in the press was going to print it?

Mr. Baker. He did not initially, and so there must have been a third conversation. So initially he did not tell us that. Later on he did.

Mr. Jordan. And can you tell me who that was?

Mr. Baker. Yes, I can.

Mr. Jordan. Was it David Corn? Who printed it?

Mr. Baker. No, it was not David Corn.

Mr. Jordan. Who did print it? Isikoff?

Mr. Baker. No. I am looking at the FBI. Can I go down this road or not, I mean, in terms of explaining?

Mr. Meadows. I don't think they need to protect the media. I think that would be the last thing that they would want to protect here, but --

Mr. Baker. Okay. I just don't want to get in trouble.

Mr. Meadows. I mean, it is open source. Obviously we will be able to figure it out, but who printed it?

Mr. Baker. So they didn't print it initially. It was the New York Times.

Mr. Jordan. Okay. So the second meeting with Mr. Sussman, he tells you, hey, Jim, the stuff I gave you, the New York Times has this information, and they print some of it?

Mr. Baker. That is my recollection.

COMMITTEE SENSITIVE

Mr. Jordan. Okay. All right. And --

Mr. Baker. Congressman, I am sorry, either in the first meeting or a second conversation, I don't remember the specifics, he tells us -- he tells me that the media has this, okay, he just tells us the media without specifying it, and they are going to publish something about it. So we take it back, we look at it. The assessment is we need more time to investigate this before the media publishes it.

Mr. Jordan. Okay. Stop one second, if I can just -- thank you. That is very helpful. The second meeting when he comes to tell you this, who was in that meeting, just you and him or you and someone else and him? Who was in the meeting?

Mr. Levin. I don't think he said it was a meeting. I think he said he wasn't sure.

Mr. Baker. It could have been a phone call. It might have been that I called Michael and said --

Mr. Jordan. You called him this time?

Mr. Baker. I don't specifically remember.

Mr. Jordan. Okay. Just -- I just want to be clear. So you have a meeting, you get the information. Documents and some kind of electronic device. There is a subsequent conversation that you initiate or he initiated, but it comes after that.

Mr. Baker. Yes.

Mr. Jordan. How long after, a week after, a couple days after?

Mr. Baker. Soon, yes. A couple days or a week.

Mr. Jordan. Okay. Then you have been using the plural pronoun.

You said "we" then looked at it all. Who was the "we" then who expected what you talked about on the conversation and the material you had?

Mr. Baker. I handled the material to the counterintelligence division, and they looked at it, scrubbed it, and look at the electric media. They assessed that my recollection is it was difficult to assess exactly what this was all about and how significant it was, but that they needed more time to evaluate it before the media started publishing stuff about this. So the request was, Jim, can you go back to Sussman and find out who in the media is going to publish this because we might want to ask them to delay.

Mr. Jordan. Okay. And the people who asked you to make that call back to Mr. Sussman and ask him, you know, to delay, who were those people?

Mr. Baker. I don't specifically recall, but I believe it was the --

Mr. Jordan. Priestap.

Mr. Baker. I think it was Priestap, and I think it might be --

Mr. Jordan. Strzok? Peter Strzok?

Mr. Baker. It may have been, but I am also thinking it was the director and/or the deputy director.

Mr. Jordan. So Mr. Comey got involved in this?

Mr. Baker. He may have. I don't specifically recall sitting here today. It is likely, given what this was all about that we briefed him on it.

Mr. Jordan. And Mr. McCabe?

Mr. Baker. Yes, sir.

Mr. Jordan. And Lisa Page?

Mr. Baker. I don't remember Lisa being involved in this part.

Mr. Jordan. But McCabe, Comey, Priestap, and Strzok you believe were involved, that is the "we" who came to you and said call Mr. Sussman back and --

Mr. Baker. Some combination of those people in a set of conversations over some period of time, yes. I know that is vague. I apologize, but that is what I recall.

Mr. Jordan. Okay. Do you know how Sussman got this material?

Mr. Baker. What I recall is he told me that there were some cyber experts that somehow would come across this information and brought it somehow to his attention, and that they were alarmed at what it showed, and that, therefore, they wanted to bring it to the attention of the FBI.

Mr. Jordan. Did he --

Mr. Baker. They and Sussman.

Mr. Jordan. They. Any names?

Mr. Baker. I don't think I ever found out who these experts were.

Mr. Jordan. Did he indicate that he got this -- may have got some of this information from the Democratic National Committee?

Mr. Baker. I don't recall him saying that.

Mr. Jordan. Did you know when he was giving this information did you know he was working for -- that he did extensive work for the DNC and the Clinton campaign?

Mr. Baker. I am not sure what I knew about that at the time. I remember hearing about him in connection -- when the bureau was trying to deal with the hack and investigating the hack, that my recollection is that Michael was involved in that process to some degree. I didn't interact with him on that, so I am not sure if I knew that before this meeting or after, but I don't recall him specifically saying --

Mr. Meadows. But you said you were friends with him, right?

Mr. Baker. Yes, sir.

Mr. Meadows. So, I mean, you knew what his career was.

Mr. Baker. Generally speaking.

Mr. Meadows. And you knew generally speaking that he had some involvement with the Democratic National Committee.

Mr. Baker. Yes.

Mr. Meadows. Okay.

Mr. Jordan. Okay. Did you interact with any other attorneys at the law firm of Perkins Coie?

Mr. Baker. I have known them over the years, yes, I have known various people there.

Mr. Jordan. How about in the context we are talking about here relative the Russia investigation.

Mr. Baker. Just Michael.

Mr. Jordan. Just Michael?

Mr. Baker. I think so.

Mr. Jordan. Okay. And did you have any conversations with Mr. Sussman about certain individuals like Mr. Manafort? Did you talk

about Mr. Manafort at all in this conversation?

Mr. Baker. I don't recall that, no.

Mr. Jordan. Did you talk about Carter Page?

Mr. Baker. No, I don't think so.

Mr. Jordan. Did you talk about anyone else associated with the Trump campaign that comes to mind?

Mr. Baker. I don't think so.

Mr. Jordan. All right. And this all again tell me the timeframe again, this was after the investigation into Russia had begun at the FBI, this was all post.

Mr. Baker. To the best of my recollection I think that is right. So I would say late summer, early fall is kind of roughly what I think.

Mr. Jordan. Okay. Good. Mark, do you have any more on this subject?

Mr. Meadows. So let me ask, so we are now up to potentially three meetings/phone calls.

Mr. Baker. Congressman, I can't say. Something like that.

Mr. Meadows. Listen, I know how memory -- I have a hard time remembering what I had for breakfast, I get that. And yet, it is critically important because if they gave you evidence why was it so important to Andy McCabe and Director Comey that the New York Times hold off on publishing this information?

Mr. Baker. Well, it was more important to Priestap. Priestap was the driving force on that. What I am telling you is --

Mr. Meadows. You said you went back to we, and the we with Jim

Jordan was all those other people, so -- and we have interviewed Mr. Priestap, and with all due respect he was not the decision maker on a whole lot of this information just to be blunt. I mean, there were other people calling the shots, and I think even he would admit that under a, you know, transcribed interview tapes and so as we look at this I guess the question I have for you is why would -- why would you go back to the New York Times and say not publish it, and if that is the case was the source of the New York Times getting it the very person that gave you the information because why would they have influence with the New York Times?

Mr. Baker. My assessment was that, yes, I don't know if Sussman said this, but my belief was that they had given it to the New York Times as well.

Mr. Meadows. So they give it to the New York Times, they give it to you, and does your bias alarm go off anywhere?

Mr. Baker. I was concerned about the nature of this material from the first instance.

Mr. Meadows. Thank you, and I agree, and there have been times where in the things that I have read I am now getting a face with the name because I have read your name a lot more. You are much more, you know, distinguished than the name would indicate, you know, because Jim Baker has all kinds of different connotations.

Mr. Baker. This is true.

Mr. Meadows. So I say that because here is the concern that I have, everything about this investigation seems to have been done in

an abnormal way, the way that you have gotten the information, the way that Peter Strzok got information, the way that Bruce Ohr was used, the way that Perkins Coie actually came in and gave you information, the way that the media has been --

It seems like everything is abnormal, and yet, one thing is consistent is that when we look at that there are alarms that would suggest that there is bias, inherent bias at each and every place that fails to get documented. It doesn't show up in the FISA applications that really any at stake. I mean, all of this stuff that we are talking about you would say, well, you ought to look at this with a jaundiced eye, would you agree? And it sounds like you did at times.

Mr. Baker. I had a jaundiced eye about everything, yes. I had skepticism about all this stuff. I was concerned about all of this. This whole situation was horrible, and it was novel and we were trying to figure out what to do, and it was highly unusual. I agree with you completely, but I will tell you when you were asking these questions before, my thinking was then and always in my career, I am following my oath to the constitution. I am going to do my damndest to follow that oath at every single turn, and whether that means that -- whatever that means, I am going to just do that, and without regard to politics quite frankly, and I just -- I am not good enough to sort out the political implications of a lot of things, so --

Mr. Jordan. That first meeting with Mr. Sussman, Mr. Baker, you meet with him, I want to make sure I understand you. He told you at that meeting he was going to give this information to the press, as

well?

Mr. Baker. This is what I can't remember. I think he said -- it was either in a first conversation or the -- so let me back up. Logically, A, I don't remember, so now I am just using logic to try to figure out. I think he may have said at the first meeting that here is this material, we got it from these cyber people, they're experts, they are worried about it.

Mr. Jordan. And didn't tell you who these cyber people were?

Mr. Baker. He never told me that that I recall.

Mr. Jordan. Okay.

Mr. Baker. And then he said -- sorry.

Mr. Levin. I think the question was did he tell you he was giving it to the press or is that something you surmised he might be doing?

Mr. Baker. I guess I surmised it. I guess I surmised that he had given it to them.

Mr. Jordan. At some point you knew because you went --

Mr. Baker. At some point I knew he had given it to the press. I assumed perhaps, and I think probably accurately that it was him or his firm or somebody.

Mr. Meadows. But our back and forth just a few minutes ago you did acknowledge the fact that he mentioned his connection with the New York Times because that is the only way that he could get them to hold up on the story. If he is the source of the story he can say don't print it because it can't go on the record.

Mr. Baker. He was the source -- he told me the New York Times

was aware of this. We, the FBI, went to the New York Times and then started a series of conversations with them to try to get them to slow down, and I am --

Mr. Meadows. So when the reporting came out who did it say the source was? You obviously read it. You are intellectually curious enough to have read the report.

Mr. Baker. The New York Times report?

Mr. Meadows. Yes. Listen, we have emails back and forth. You all read more New York Times than the New Yorkers do, so go ahead.

Mr. Baker. So sitting here today I don't specifically remember that article. I may be intellectually curious, but I was also pretty damn busy, and so I just don't remember the details of that.

Mr. Meadows. You don't know who the source was?

Mr. Baker. The source for?

Mr. Meadows. The source for the New York Times article, you don't know who the source is today.

Mr. Baker. Sitting here today I don't recall having that information. It may be in the article, I just don't remember. I assume it was Sussman or somebody connected to him.

Mr. Jordan. Okay. Mr. Baker, are you an expert on the FISA process and FISA applications?

Mr. Baker. I would say generally yes.

Mr. Jordan. And when did you first learn of the Carter Page FISA application?

Mr. Baker. I think it was in a briefing about the Russia

investigation in general. We were going through the different targets of the investigation, what was happening with each one, and somebody said, yes, we are seeking a FISA on Carter Page.

Mr. Jordan. And do you know about the timeframe when that took place?

Mr. Baker. Late summer, early fall sometime in there.

Mr. Jordan. Same time we are talking about?

Mr. Baker. Yes.

Mr. Jordan. Did you read the FISA before it went to the court?

Mr. Baker. I eventually read the factual section of the initiation. That is the best of my recollection.

Mr. Jordan. And that is the normal course of business at the FBI? Not?

Mr. Baker. No. I hardly read any FISAs when I was there. We had --

Mr. Jordan. Why did you read this one?

Mr. Baker. Because I knew how sensitive it was.

Mr. Jordan. So you felt this -- how many FISAs have you read --

Mr. Baker. I anticipated being sitting here in rooms like this down the road, I seriously did, and I knew that it was -- I knew that it was sensitive. I knew that it would be controversial.

Mr. Jordan. Sensitive or what is another word?

Mr. Baker. It was connected to a candidate -- this person had connections to a candidate for the office of President of the United States. That alone was enough to make me worried about it and made

me focus on it. And I thought that it would be worth my spending time reading this thing to make sure that given my experience in FISA I could add whatever value I was able to add.

Mr. Jordan. How many other FISAs have you read in your time as general counsel?

Mr. Baker. My time as general counsel, a handful.

Mr. Jordan. So this was exceptionally --

Mr. Baker. This was exceptional, yes.

Mr. Jordan. Okay. What are the requirements to obtain a FISA warrant on a U.S. person? You have asked that.

All right. Did you advise -- what advice did you provide to Director Comey in obtaining this FISA order on someone as you have described associated with a major party's Presidential candidate?

Mr. Baker. I think at some point I spoke to him about that and said that I had read it and thought that it was legally sufficient. And I believe I was also focused on I wanted to make sure that everybody through the system was focused on making sure that there is a legitimate foreign intelligence purpose for this surveillance and highlighting -- because when the director signs a certification one of the things he is signing is that there's a significant purpose of the application is to obtain foreign intelligence, and I wanted to make sure that people were crisp about that and making sure that they were all comfortable, whoever is signing this, that that was legitimate foreign intelligence purpose for this surveillance.

Mr. Meadows. So you read the Woods file?

Mr. Baker. No, I didn't read the Woods file.

Mr. Meadows. I mean, from what I understand, and I am a novice, maybe you can help me understand this how would you know the veracity of -- the full legitimacy of the FISA application without reading the Woods file?

Mr. Baker. I was reading the -- so I know about the Woods file very well and the existence of it and the purpose of it. So I was aware that there would be a Woods file supporting the allegations in the application. I read the application. I made comments on it. I asked questions.

Mr. Meadows. Yeah but --

Mr. Baker. But I didn't read the Woods file.

Mr. Meadows. -- you didn't read the Woods file. So how can you give advice on whether it is legitimate or not without reading the underlying documents that support the very application that you are making a recommendation on?

Mr. Baker. Well, the Woods file would go to the accuracy of the information in the FISA, not --

Mr. Meadows. That's correct.

Mr. Baker. Correct, but not to the foreign intelligence purpose necessarily.

Mr. Meadows. Well, but here is the -- it gets back to probable cause. You know, you said that whole reason up front as an expert was the probable cause. How could you understand that without reading the Woods file?

Mr. Baker. As I said earlier I think to the minority, I have participated in one way or another in the review of 10,000 FISA applications, and I don't think I ever read the Woods file contemporaneously with reading the application as it was on --

Mr. Meadows. So would you say your recommendation -- would you say your recommendation then on whether to sign off on it or not was based on incomplete review?

Mr. Baker. No, I would not say that. I would say based on the normal review that I would do at my level --

Mr. Meadows. So let me ask you this, so this is a hard question because some have suggested, and I don't want to make any suggestion, did you ever caution anyone on what may or may not have been included in the FISA application in the absence of other evidence that may have been appropriate to include?

Mr. Baker. I am not sure I understand your question.

Mr. Meadows. All right. So let me rephrase it as good attorneys would say.

There have been some who suggested that there were other compelling pieces of evidence that might have given us a better, more full flavor of the reason for this FISA application, and those documents or information were excluded from the FISA application. Are you aware of any information being excluded from the FISA application?

For example, Bruce Ohr said that he told the FBI that there was bias, there was the potential for bias, that there was potential for conflict in terms of the information he was getting from Nellie Ohr

sat right where you are sitting and said that he communicated that to the FBI, and yet we can't find that anywhere in a FISA application. Did you caution them on not including that in there? Were you aware that Bruce Ohr said that there might be bias?

Mr. Baker. I don't recall ever hearing that before just right now.

Mr. Jordan. Did you review the three renewals on the FISA?

Mr. Baker. I don't specifically remember reviewing those renewals. I may have looked at one of them. I think there was some that went to court and I heard about it after the fact, and I was like oh, well, I probably should have known about that before, but, you know, the machinery was moving and the renewals they had expiration dates and so on.

So I think the one I focused on most closely was the initiation.

Mr. Jordan. When you review it what is the lag time between when you review it, give it then sign off and it actually goes to the court? Was it days, was it weeks? What was the timeframe?

Mr. Baker. So the way I thought about my review was my review was in parallel to everything else going on. So the applications moving forward other people are reviewing it within the FBI, DOJ is reviewing it. I asked to have a copy so I could look at it and then feed comments back into the stream of the flow of it, right? And so --

Mr. Jordan. You ultimately saw the final, you saw the final copy, final document before it went?

Mr. Baker. I am not sure that -- the final would not necessarily

have to come to me for approval.

Mr. Jordan. Okay.

Mr. Baker. So there was no delay, and my objective was not to have any delay in processing the thing. What I believe is when I found out that the Carter Page application was ready to go at some point in time I recall having a conversation with the director and just highlighting to him this thing I said a few minutes ago about the foreign intelligence purpose.

Mr. Jordan. In this process were you looking at and reading the factual part of the FISA, this all happened after you had had your conversations with Mr. Corn and he had given you part of the dossier and after your conversations with Mr. Sussman and he had given you whatever he gave you?

Mr. Baker. I can't remember when the initiation was on the Carter Page. Do you guys -- I just don't remember that.

Mr. Meadows. October 21st.

Mr. Baker. So that would have been before. The Corn thing -- October 21st?

Mr. Meadows. 2016.

Mr. Baker. I think the Corn, the positive information with me was slightly after that.

Mr. Jordan. Okay. What about Sussman?

Mr. Baker. Sussman was before that.

Mr. Jordan. Sussman was before?

Mr. Baker. Yes.

Mr. Meadows. Okay. So you are saying that David Corn gave it to you after you opened on Carter Page, that would be not consistent with a timeline that I have been led to believe.

Mr. Baker. So I am just going on my recollection today. Go with whatever is in the 302.

Mr. Meadows. No, no, no. I don't want to put words in your mouth, but let me just tell you that your conversations with David Corn appear to have happened earlier than October 21st. They appear to happen in September.

Mr. Baker. And he gave us the dossier information?

Mr. Meadows. Well, where did he get the dossier from?

Mr. Baker. Sitting here today I don't remember him telling me that, where he got it.

Mr. Meadows. So you have a personal relationship with this reporter, you continue that personal relationship today, and you are telling me that he has never told you where he got the dossier from?

Mr. Baker. I am not saying that. I am saying I don't remember sitting here today whether he told me where it came from.

Mr. Meadows. So you have no recollection of where he got it from? That is your sworn testimony -- well, it is not sworn.

Mr. Baker. I just can't remember it, Congressman. I know it seems ridiculous. But I just -- I can't remember it, and whatever I knew about it I told the FBI at the time that they interviewed me for the 302.

Mr. Meadows. And so you are just saying your memory -- I mean,

one of the most unbelievable pieces of evidence and you are in the chain of that evidence, which you said is abnormal, and you can't remember where that came from?

Do you think the FBI would have a problem of you not knowing where that information came from?

Mr. Baker. I don't know. I am sure they asked me, and I told them whatever he told me. I assumed that he got it from the -- I think I assumed at the time or knew, he may have told me, that he got it from Simpson or somebody acting on Simpson's behalf. Which is my --

Mr. Meadows. So subsequent to that point -- obviously you have had multiple conversations with him. Has he told you since that point where he has gotten it?

Mr. Baker. I don't think so. But I believed -- my understanding at the time was that Simpson was going around Washington giving this out to a lot of different people and trying to elevate its profile. And so we had heard that it had been given to members of the media, and I assume David was there for one of the people who got it from Simpson.

Mr. Jordan. Okay. At what point did you know that the dossier was financed by the Clinton campaign and the DNC?

Mr. Baker. I don't remember exactly when, but I think I knew that -- I think I knew that at some point in this process.

Mr. Jordan. Before or after? Before the FISA application was taken to the Court or after?

Mr. Baker. I can't remember. I know that I didn't know all the

facts with respect to the providence of this thing at the time of the FISA application. I think I was asking some questions in my notations about find out more information about it.

Mr. Jordan. Would you have been comfortable signing off on the FISA application without the dossier being part of it? In other words, was the dossier a central element to that in your mind?

Mr. Baker. The dossier was certainly an important part, and to the extent that we were going to include it then we were obligated to talk about Simpson and what the hell we knew about him -- I am sorry, what we knew about him. And but there were other things in that application that to me were alarming, as well. I am not going to sit here and say that there wouldn't have been probable cause or that there would have been probable cause without the dossier. I would have to go back and look at it again, but there were other activities of Mr. Page that were alarming to me that I thought certainly merited an investigation and --

Mr. Jordan. Do you think it is important that the judge in the FISA court know who paid for the dossier, that information should have been made clear to the judge of the FISA court?

Mr. Baker. So I remember that in the -- I am not able to give you a clean answer on that. I can -- the Court needs to be apprised, absolutely needs to be apprised of all the material facts. And so I believe that we put language -- again, I haven't read it in a long time, I believe we put language in the application to try to alert the Court to the fact that there were a range of issues with respect to the

providence of this information and the relationship that we had with respect to Mr. Simpson and his credibility.

Mr. Jordan. Do you know if President Obama or anyone at the White House knew about the existence of the Carter Page FISA?

Mr. Baker. I don't recall sitting here. I don't recall ever hearing that before, but I don't remember.

Mr. Jordan. You don't remember or you don't know?

Mr. Baker. I don't remember ever having heard that.

Mr. Jordan. Okay.

Mr. Breitenbach. I am sorry, would the White House ever have knowledge of an ongoing FISA?

Mr. Baker. Sometimes, especially like in a counterterrorism area.

Mr. Breitenbach. Would they have knowledge as to the -- would the Woods file or anything related to the Woods file ever be presented to the White House?

Mr. Baker. I would highly suspect that it would not be. I would be quite surprised if it were.

Mr. Meadows. So did you review the Comey memos?

Mr. Baker. Yes.

Mr. Meadows. And why did you review the Comey memos?

Mr. Baker. I reviewed them for a couple different purposes. One, he gave some of them to me contemporaneously, so I reviewed them. He asked me to take a look at them and so I read them then. And then eventually I also read all of them in connection with a classification

review that we did of all the memos as a complete set.

Mr. Jordan. How about the McCabe memos, any of those?

Mr. Baker. I was aware of the McCabe memos, but I don't recall ever reading them.

Mr. Meadows. Were you in the meeting when deputy AG Rod Rosenstein suggested to wire tap or record the President of the United States as has been recently reported allegedly in the McCabe memos?

Mr. Baker. I was not at those meetings, but I heard about those meetings.

Mr. Meadows. And how did you hear about those meetings?

Mr. Baker. I heard about them, I believe, from Andy and from Lisa.

Mr. Jordan. At the time?

Mr. Meadows. At the time?

Mr. Baker. Shortly thereafter.

Mr. Meadows. So Andy and Lisa came to you and said the DAG is suggesting that we tape the President of the United States?

Mr. Baker. What they told -- I can't remember specifically who told me. It was I believe to the best of my recollection it was some combination of them that they told me that there had been a conversation with the DAG about the idea of the DAG wearing a wire into a conversation or conversations with the President.

Mr. Meadows. Did they take that seriously?

Mr. Baker. Yes.

Mr. Jordan. When?

COMMITTEE SENSITIVE

Mr. Baker. I beg pardon?

Mr. Jordan. When did this happen?

Mr. Baker. I believe this happened in the immediate aftermath of the firing of Director Comey.

Mr. Jordan. So May 9 Mr. Rosenstein writes the memo outlining why it was appropriate to fire Director Comey. Before we get to the question we want to ask here I want to ask you this, were you involved in any way in drafting that memo or reviewing that memo that Mr. Rosenstein wrote?

Mr. Baker. No. I saw it later, but not at the time.

Mr. Jordan. So that happens on May 9, and then sometime shortly thereafter there is this meeting. You were not in the meeting?

Mr. Baker. I was not in the meeting.

Mr. Jordan. But shortly thereafter you heard about the meeting and you heard about it from Mr. McCabe and Ms. Page?

Mr. Baker. I think I heard it from Mr. McCabe. I am quite confident I heard it from Mr. McCabe. I think I may have also heard about it from Lisa, but I don't specifically remember that --

Mr. Meadows. And were they in that meeting?

Mr. Baker. My understanding was yes.

Mr. Meadows. Who else -- did they say who else was there?

Mr. Baker. People from the DAG staff, but I am not sure that they specifically told me who it was, but it wasn't just them and the DAG, it was the DAG and --

Mr. Jordan. Scott Schools?

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. Baker. He could have been, but I don't specifically remember.

Mr. Jordan. Bruce Ohr?

Mr. Baker. No, I don't think so. There was the chief of staff to the DAG at the time whose name I am drawing a blank on.

Mr. Jordan. Becky? No, that is on your side.

Mr. Baker. I want to say Jim Crowell maybe.

Mr. Jordan. Yes. How about Peter Strzok, was he there?

Mr. Baker. I don't think so.

Mr. Jordan. Okay.

Mr. Baker. This was -- to the best of my recollection this was between the time Director Comey was fired and when the special counsel was appointed.

Mr. Jordan. Right. Between the 9th and 17th. So tell us about that conversation that you had with Mr. McCabe and/or Ms. Page.

Ms. [REDACTED] Congressman, I just want to be clear on something. To the extent that Mr. Baker goes into the substance of what may have been in the memo if these conversations go into what is in the memos the memos are evidence in the special counsel --

Mr. Meadows. We are talking about a conversation. We get that because it is part of that, but we are talking about a subsequent conversation that happened perhaps around a water cooler or a coffeepot, you know, whatever. I get where you are coming from, but we are talking about --

Ms. [REDACTED] Okay. Okay.

COMMITTEE SENSITIVE

Mr. Meadows. Mainly because I don't believe the memos any ways, and so this is actually helping me understand what was happening. I have my questions having interviewed Mr. McCabe on the veracity of those memos any ways, but go ahead.

Mr. Baker. So, I am sorry, what do you want me to answer?

Mr. Jordan. Describe the conversation you had with Mr. McCabe and/or Lisa Page regarding the meeting in the DAG's office where he said that he was thinking about recording the President.

Mr. Baker. So what I recall is that there were -- that they, not me, they were going to -- they were having a series of meetings and conversations with the DAG and his staff trying to figure out what to do in the immediate aftermath of the firing.

The DAG was having a hard time with the blow-back, I guess you would say, from the firing and the extent to which that he -- his recommendation to the President had been used to justify the firing. I understood that he thought that he had been used or misused with respect to the firing and that he was quite alarmed by this whole situation.

In the context of those conversations at some point in time I thought it was -- my understanding was it was the deputy attorney general who came up with the idea of wearing a wire into a conversation with the President and that my understanding from my conversations with at least with Andy and/or Lisa was that they took it as a serious statement, that it was a serious thing to think about.

Mr. Meadows. And the reason he was going to wear a wire was to --

Mr. Baker. Well, that is a good question. It was not exactly clear.

Mr. Meadows. -- get what kind of evidence?

Mr. Baker. Evidence with respect -- so I guess -- okay. My understanding would be it would be evidence with respect to the President's obstruction of the FBI's investigation.

Mr. Meadows. Into what?

Mr. Baker. Into Russia.

Mr. Meadows. And how that played into the Comey firing?

Mr. Baker. Yes, yes, the extent to which the firing of Director Comey was part of an effort to obstruct the FBI's investigation into Russia. That is what I understood from the context and what --

Mr. Meadows. But you reviewed the Comey memo.

Mr. Baker. Yes, sir.

Mr. Meadows. And you actually apparently wrote some of the Comey memos, is that what you are saying or he just shared them with you, you helped with the drafting?

Mr. Baker. No, I never helped with the drafting.

Mr. Meadows. Okay. So you just reviewed them --

Mr. Baker. I reviewed them.

Mr. Meadows. -- for typos, or --

Mr. Baker. No.

Mr. Meadows. Why did you review them?

Mr. Baker. No, no. He had conversations with me -- so, there are a lot of memos, right? So --

Mr. Meadows. Because if there are copious notes of his own he doesn't need your refreshing because you weren't in the meeting.

Mr. Baker. No, but he would tell me about -- you have to ask me why he told me exactly, but he was telling me about interactions he had had with the President, so he would give -- in some instances he would give me an oral description of what his interaction was with the President and then he would say, and I wrote a memo on this, get it from Rybicki, he has got it, take a look at it. Or sometimes he handed them to me.

Mr. Meadows. Because the whole obstruction case, Jim, I guess question is you have read the memos, you have heard Director Comey testify. I in reading the memos and hearing him testify it didn't sound like he felt intimidated by the President at all based on those memos. I mean, I would use the memos as a defense, wouldn't you agree with that?

Mr. Baker. Well, so there is two things. One, what did the President -- I am not going to be able to analyze this all here sitting here right now, but what did the President intend, what did he try to do, and what were we willing to do, and were we the type of people who were going to be obstructed and tolerate that.

So that we would not be obstructed was clear and what exactly the President was trying to achieve was difficult to ascertain.

Mr. Jordan. I understand. We have a limited amount of time. So, Mr. Baker, you said your understanding was based on what Mr. McCabe and Ms. Page told you that Mr. Rosenstein was contemplating recording

the President because of the obstruction of justice issue?

Mr. Baker. That is what my understanding was. I may be surmising that.

Mr. Jordan. Was there anything talked about the 25th Amendment issue?

Mr. Baker. Yes.

Mr. Jordan. So both.

Mr. Baker. Yes.

Mr. Jordan. So both. And you took their conversation as completely serious that Mr. Rosenstein was serious about wearing a wire and recording the President for both of those reasons?

Mr. Baker. No, no. I didn't connect the 25th Amendment thing to the wire. Maybe it was my mistake mentally. I connected that more to the obstruction matter. The 25th Amendment conversation, my understanding was that there was a conversation in which it was said I believe by the DAG that there were -- that there were two members of the cabinet who were willing to go down this road already.

Mr. Meadows. And so they reached out to you because they were looking for legal advice, that is why they were sharing this with you?

Mr. Baker. No. They came back to me -- they would come back from these meetings, and we would have conversations --

Mr. Meadows. So you had little gossip sessions?

Mr. Baker. Beg pardon?

Mr. Meadows. You would have gossip sessions?

Mr. Baker. No. He was my boss. He would come, and I was the

COMMITTEE SENSITIVE

general counsel of the FBI, so he was seeking counsel, Jim --

Mr. Meadows. No, that is what I was asking. You --

Mr. Baker. Jim, help me figure out --

Mr. Meadows. So they came back to you from this meeting where Rod said let me wear a wire, tape the President, and they were asking you for legal advice.

Mr. Baker. Not legal advice, but counsel. How do I deal --

Mr. Meadows. Legal counsel. What is the difference?

Mr. Baker. I wouldn't even say it was necessarily legal counsel. It was just what do you think about this, how am I supposed to deal with this? I am now at that point Andy was the acting director. He needed help figuring out what to do, and I was there to help him.

Mr. Meadows. So why did you not blow the whistle? Because this would not just have I think ethical concerns, but it would also have national security concerns somebody going into an Oval Office wearing a wire, why would you not blow the whistle at that point, Jim?

Mr. Baker. Was it I would blow the whistle on some type of unlawful activity, and it was --

Mr. Meadows. So it was just contemplated unlawful activity?

Mr. Baker. I don't know that it was unlawful.

Mr. Meadows. Unethical.

Mr. Baker. I don't know that it was unethical.

Mr. Meadows. So you had never gone to your FBI agents that they would wear a wire and go into the Oval Office and tape the President of the United States? I find that hard to believe.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. Baker. I never did a legal analysis of this matter because after the conversation came up it was quickly dismissed.

Mr. Meadows. Who dismissed it?

Mr. Baker. A, I don't really know, but, B, my belief is that it was just not something that made any sense to do, it was too risky, it just would not pay the benefits. It wouldn't obtain the information that they thought it would obtain, so it just was one of these things that didn't make sense from a commonsense perspective, despite any legal analysis.

Mr. Jordan. Do you know how the New York Times obtained this information?

Mr. Baker. Which information?

Mr. Jordan. The information about the McCabe -- the story that was written a week and a half ago about the McCabe memos and the fact that Mr. Rosenstein had this conversation in the presence of Mr. McCabe and Ms. Page, information you have just been talking about, do you know how they got a hold of this information?

Mr. Levin. Again, I am not going let him answer any questions about leaks.

Mr. Jordan. Did you talk -- Mr. Baker, have you talked to the New York Times about this information?

Mr. Levin. I am just not going to let him -- without in any way suggesting he has, I am not letting him answer any questions about conversations with reporters going in that direction, so I am just not allowing that.

COMMITTEE SENSITIVE

Mr. Jordan. I am sorry, Mark. Go ahead.

Mr. Meadows. So are you suggesting this this is part of the criminal investigation? Because this just happened. This would be beyond the scope, so what reason are you giving us for not answering this question?

Mr. Levin. There is still an ongoing investigation, and I don't know what the scope of it is.

Mr. Meadows. I beg your pardon?

Mr. Levin. There is still an ongoing investigation that the department hasn't closed, and I don't know what the scope is, and I don't know --

Mr. Meadows. Yes, but this lead just occurred, so it would have had to have been --

Mr. Levin. I am sorry, I am not allowing it. That is the answer.

Mr. Jordan. Let me try it this way. You told us that you have talked to Mr. Corn. Have you ever talked with the New York Times about the Russia investigation?

Mr. Levin. Again, I am not allowing the question. I am not allowing him to answer questions -- obviously you can ask whatever you want. I am not allowing him to answer questions about that.

Mr. Jordan. Thank you.

Mr. Meadows. We are out of time, so maybe a 5-minute break if you all want one, and then minority will --

Mr. Levin. Again, I apologize, it is my fault, but we will stop at 2, and then we can always arrange to come back if it is necessary.

COMMITTEE SENSITIVE

Mr. [REDACTED] As a cleanup matter, with respect to the request for the name of the GS-15 employee based on to confidential nature of the hearing, the general counsel has approved the release of the name Sally Moore.

Mr. Jordan. Do I understand we are done at 2:00? Is there a long break? Are we coming back or is 2:00 --

Mr. Meadows. Set up another time to come back.

Mr. Jordan. Another day. Okay. Thank you, guys.

Mr. Levin. Are we done now or are we going to go until 2:00?

[Recess.]

BY MS. SACHSMAN GROOMS:

Q Back on the record. It is 1:37. I am Susanne Grooms.

A Yes.

Q Can you explain what the atmosphere was like at the FBI after the President fired Jim Comey?

A I am not sure that I can reduce it to one or two words. It was an, I guess, horrible atmosphere. It was shock, dismay, confusion, at least initially that night and then -- and then a sense of resolve that came pretty quickly as well to continue the FBI's mission. And as I was saying earlier to the Congressman, make sure that we were all adhering to our oaths to the Constitution and executing our responsibilities.

Q Was there a concern at the FBI that the President had fired Director Comey because he was trying to obstruct the FBI's investigation into the Russia matter?

COMMITTEE SENSITIVE

A Yes.

Q Was that a concern you had?

A Yes.

Q Was that concern shared by others?

A I think so, yes.

Q Who? Who else?

A The leadership of the FBI, so the acting director. I can't remember if we appointed an acting deputy director immediately. The heads of the national security apparatus, the national security folks within the FBI, the people that were aware of the underlying investigation and who had been focused on it.

Q Was there discussion about opening a case into the obstruction of justice matter?

A I am looking at the FBI to see if you have any objection to me answering this question in this format.

Ms. [REDACTED] Could you restate your question, please?

Ms. Sachsman Grooms. Was there discussion about opening a case to investigate the obstruction of justice matter?

Ms. [REDACTED] Okay. So that would -- that would call for a yes or no response. If we go further into that we may have to stop the witness from answering.

Mr. Baker. Yes.

BY MS. SACHSMAN GROOMS:

Q Was any of that discussion had with the Department of Justice?

COMMITTEE SENSITIVE

A Not by me, and I can't recall if anybody in particular had that conversation early on with the Department of Justice. I think eventually, yes, but I am not sure like in the first day or couple of days whether we had a conversation with the department about that.

Q Did individuals in leadership at the Department of Justice share the concern of leadership at the FBI that the President had fired Director Comey as part of an attempt to obstruct the FBI's investigation into the Russia matter?

A I believe the answer to that is yes. I am not sure that anybody has specifically told me that personally, but that is my understanding.

Q And where do you get that understanding?

A From conversations with other FBI executives.

Q FBI executives that communicated to you that they had been talking to people at DOJ or --

A Yes, yes.

Q So in the previous round you mentioned that at some point you had a conversation with either Mr. McCabe or Lisa Page or maybe both about the idea of the Deputy Attorney General wearing a wire. Is that accurate?

A Yes.

Q Who was the conversation with?

A My conversation?

Q Yes.

A I believe it was with Andy McCabe and either at the same time

COMMITTEE SENSITIVE

or later I had a similar conversation with Lisa Page, I think.

Q And you were not there during the Deputy Attorney General's conversation?

A Correct.

Q And you don't know specifically who was in the room during the Deputy Attorney General's conversation?

A I don't know specifically who was in the room.

Q And when -- I believe you said that the issue had been dismissed rather quickly. Is that accurate?

A Yes.

Q Was it dismissed --

A Not immediately, but rather quickly, yes.

Q Was it dismissed during the same meeting?

A My recollection is that there were discussions about it over a longer period than the course of one meeting. It was relatively short, but I don't believe it was just in the one meeting that it was dismissed.

Q And the conversations that continued having after the meeting were conversations at the FBI. Is that right?

A So the FBI, the acting director Andy McCabe and others were having conversations with the department and then after the fact I would hear about them.

Q So you are now telling us hearsay information about conversations that other people had, right?

A I am telling you information that I heard from people who

were in the meeting who told me about what happened afterwards.

Q And the issue was dismissed because it didn't make any sense. Is that right?

A It just didn't make common -- yes.

Q Did you think it was a good idea?

A I am not sure that I ever reached that conclusion because it was kind of dismissed so quickly. So I saw the risks of it. I saw some potential benefits to it, but I am not sure that I ever came to -- at that time I don't believe I came to a final conclusion like, yes, we should do this or, no, this is terrible. It was just -- it was a stunning kind of idea and one that had all kinds of implications and problems associated with it. And so, yes -- but there was not just one conversation about it, there were more than one conversation about it that I was present at to the best of my recollection.

Q And the conversations, that you were present at, nobody from the Department of Justice was present at. Is that right?

A That is correct.

Q And the conversations you were present at who else was present from the FBI?

A I believe it was Andy McCabe, Lisa Page, and eventually it might have been Carl Ghattas, as well, who was the head of the national security branch at the time.

Q And those took place in a very short period of time?

A Yes.

Q Is that --

A Excuse me, Bill Priestap may have also been present for one of those conversations. I am sorry.

Q And the short period of time was matter of hours, a matter of a day, 2 days --

A A couple of days or something, yes.

Q And how did you learn that the idea had been dismissed?

A I don't think there was ever a formal decision at a meeting where let's dismiss this. It just kind of didn't -- it was an idea that just didn't go anywhere because it was too impractical, too risky, and unclear that it -- unclear that it would produce any results that would be useful.

Q You also said that you were aware, again not in any conversation with but of some hearsay information around a conversation about the 25th Amendment. Is that accurate?

A Yes.

Q Was the 25th Amendment conversation had in the same conversation as the wire conversation?

A I don't recall that. They were at or about the same time.

Q And you were in neither of those conversations, correct?

A Correct.

Q So at or about the same time you don't know whether they were part of the same conversation or different conversations. Somebody told you that the DAG had spoken about the 25th Amendment. Is that accurate?

A Andy McCabe told me that the DAG had talked about the 25th

Amendment.

Q And what did Mr. McCabe tell you?

A To the best of my recollection he told me that the DAG said that he had at least two members of the cabinet who were ready to invoke the 25th Amendment.

Q And what happened after that during that conversation? Did Mr. McCabe tell you anything else?

A I am sure he told me other things in that conversation, but it was in part both of those things were relayed to me with other information with respect to the -- what the DAG was going through at the time and how he was thinking about his involvement in the firing of Director Comey and how he was thinking about proceeding after that.

Q Did people tell you that the DAG was upset?

A Yes.

Q Did they tell you that he was making jokes?

A No.

Q Did they tell you that --

A This was not a joking sort of time. This was pretty dark.

Q And did they -- did Mr. McCabe explain to you in what context the 25th Amendment came up?

A Again, I think the DAG was struggling with figuring out what to do in the aftermath of the firing of Director Comey, and he was talking about and saying lots of different things. And my understanding these were long meetings that they had over at the department with the deputy, the deputy attorney general and that they

were talking about lots of things, and these were two pieces of information among others that I heard about.

Q What kinds of other things?

A So trying to understand the role that the deputy attorney general played in the firing, the disclosure of this written -- I guess there was a draft of -- a first draft of something that the President or somebody on his behalf had written. I think we got a copy from the DAG of the memo or a document, whatever you want to call it, that he had written and sent to the White House.

There were discussions about what investigative steps made sense next. There were discussions about the Deputy Attorney General's sort of state of mind at the time that all this was going on, and then there were discussions about how we should proceed forward with a special counsel and so -- and what the FBI was going to do in terms of investigations that it might open in response to the firing as I just said a few minutes ago. So there was a range of topics that we discussed associated with all this. I am happy to say more about that if you want to ask me more questions, but --

Q When Mr. McCabe spoke to you about these conversations was it immediately after the conversation?

A I think so. I think it was -- it was either the -- it was either that day or the next day.

Q And what was Mr. McCabe's state of mind?

A At this point in time Andy was unbelievably focused and unbelievably confident and squared away. I don't know how to describe

it other than I was extremely proud to be around him at that point in time because I thought he was doing an excellent job at maintaining his focus and dealing with a very uncertain and difficult situation. So I think he was in a good state of mind at this point in time.

BY MS. SHEN:

Q So, Mr. Baker, last round there was discussion about the Carter Page FISA application. I believe you said that you had reviewed the factual part of that application?

A That's my recollection.

Q Okay. So I would like to introduce as Exhibit 1 pages 15 to 17 of the Carter Page FISA application, which was heavily redacted and released under the Freedom of Information Act.

[Baker Exhibit No. 1

Was marked for identification.]

BY MS. SHEN:

Q And on Page 15 there is a section entitled, "Page's Coordination with Russian Government Officials on 2016 U.S. Presidential Election Influence Activities?"

Mr. Baker, do you recall reading this portion of the document?

A I don't recall this specifically. As I flip the page and look at page 16 I remember a long footnote that seems to go on for at least a couple pages here. That I remember, and I remember focusing on that and spending some time on that.

Q Okay. So if you will bear with me I will just sort of quickly read right underneath it says, "According to open source information

in July 2016, Page traveled to Russia and delivered the commencement address at the New Economic School. In addition to giving this address, the FBI learned that Page met with at least two Russian officials during this trip. First, according to information provided by an FBI confidential human source, (Source #1)."

And then there is a footnote, footnote 8, that references down to the page, and I believe that is the footnote you just referenced about, you know, going on for at least a page. And in that footnote it says, "Source #1's reporting has been corroborated and used in criminal proceedings and the FBI assesses Source #1 to be reliable."

Mr. Baker, is it a good indicator of a source's reliability when their information can be corroborated by the FBI?

A Yes.

Q Okay. Is it a good indicator of a source's reliability when their reporting has been used in criminal proceedings?

A Yes.

Q Okay. So it continues, "Source #1 has been compensated," redacted, "by the FBI and the FBI is unaware of any derogatory information pertaining to Source #1." So if I am reading this correctly, there was no derogatory information found by the FBI regarding Source #1 in this case, is that consistent with your understanding?

A So the people filing the FISA application and the people who checked the Woods file to verify that the way this works is that they would not have had any information that was derogatory about Source

#1 at the time that this was submitted.

That there might exist in the files of the FBI or in somebody's memory some interaction that might be derogatory and that it didn't make it into the files I don't know that that happened or didn't happen. That kind of thing in theory, in theory could happen. So, but the people responsible for this FISA should have believed that that was accurate at the time and should have had documentation to support that assertion.

Q Okay. So the people according to the normal procedures of FISA, the information they had in hand there was no such derogatory information?

A There shouldn't have been, right, because I believe they would not try to file a false statement with a FISA court under any circumstances knowingly. No one would.

Q Okay. And just for clarification, you know, it is my understanding that Source #1 would be referring to Christopher Steele.

A I think that is right.

Q Okay. So I will ask you to turn to page 16. The last sentence in the first paragraph says, "The FBI speculates that the identified U.S. person was likely looking for information that could be used to discredit Candidate #1's campaign." So I believe that refers to Glenn Simpson who may have hired Christopher Steele to conduct research. Is that consistent with your reading of this?

A I don't remember who the identity was of the person.

Q Okay. So, you know, there have been allegations that the

FBI and the Department of Justice abused the FISA process because they failed to disclose a possible political motivation from Christopher Steele to the FISA court judges.

Given the information in this footnote that was provided, including the FBI speculating that, you know, this information may have been used to discredit this candidate's campaign, do you believe this FISA information was sufficiently transparent? Do you believe there was abuse in failing to disclose additional information?

A I guess I would answer it a couple ways. One, I don't know what other information there is in the FBI files with respect to Christopher Steele. I don't fully know all of that, and I have heard some things today about the interaction between Bruce Ohr and Christopher Steele that I didn't to the best of my recollection I didn't know before. So I am not claiming to know everything that there is about -- that there is out there with respect to Christopher Steele.

What I would say is that that sentence at the end of the first paragraph on page 16, "The FBI speculates that the identified U.S. person was likely looking for information that could be used to discredit Candidate #1's campaign" puts -- is sufficient to put the FISA court on notice that there may be a political motive behind all this and that the court should take this into consideration. And so to me I can't see what is behind the blackout and I don't remember it.

My recollection is when I -- whatever last draft that I read about this, that I read of this application, whatever briefing I received from my folks about what was in the application, my assessment was that

the information that we were providing was adequate and consistent, it was adequate to put the FISA court on notice of the important information that it needed to know, and we were doing so in way that was consistent with our practice with the FISA court that I have been involved with for 20 years.

Q So is it fair to say that because it appears that the FBI tried to put the FISA court on notice about possible political motivations that is a strong indication they were not trying to abuse the FISA process?

A I don't think -- I know that the FBI was not trying to abuse the FISA process. I never heard anybody say anything of that nature, and I certainly would not have countenanced that whatsoever.

Q Okay. Given that this footnote seems to span at least a page, how likely do you think it is that the FISA judges missed the footnote and did not read this? Do FISA judges tend to read footnotes?

A It is highly unlikely that anybody would miss a footnote that is this long, and I just note for the record it is not in small type or anything like that, it is in normal font.

Q Okay. I will just go further down on the same page. It says, "Notwithstanding Source #1's reason for conducting the research into Candidate #1's ties to Russia, based on Source #1's previous reporting history with the FBI, whereby Source #1 provided reliable information to the FBI, the FBI believes Source #1's reporting herein to be credible."

Sitting here today, do you agree with that assessment?

A So I want to be careful. I don't know everything about Mr. Simpson, so today I can't assess that. I just don't know enough of the details. It would not be appropriate for me to say that.

Q Okay. And we --

A I certainly believed this at the time. I am sorry.

Q Okay. Thank you. And just related to something we discussed in the previous round, this paragraph seems to assert that, you know, there is an awareness that, you know, that a reason for conducting the research, you know, may have political motivations, but nonetheless based on other information such as a credible, you know, previous history that the FBI ultimately concluded that Christopher Steele was a credible source. Do you agree that Christopher Steele was a credible source?

A That is what I thought at the time. Again, I don't know everything that he -- I don't know everything that is to be known about him, but based on the information presented to me and the way this was articulated, I thought that he was a credible and reliable source and certainly enough to put into a FISA application with the appropriate caveats and other disclosures to the Court associated with it.

Ms. Shen. Okay. Thank you.

Mr. Levin. This is probably a good time to stop then. We will work with Mr. Baker for another time.

Ms. Shen. Okay. Thank you.

[Whereupon, at 2:00 p.m., the interview was concluded.]

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