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SENATE JUDICIARY COMMITTEE

U.S. SENATE

WASHINGTON, D.C.

INTERVIEW OF: DANA J. BOENTE

MONDAY, JUNE 22, 2020

WASHINGTON, D.C.

The interview in this matter was held at the Dirksen Senate Office Building, Room SD-226, commencing at 10:00 a.m.

## 1 APPEARANCES:

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

3 Arthur Radford Baker, Senior Investigative Counsel

4 (Majority)

5 Heather Sawyer, Staff Director &amp; Chief Counsel (Minority)

6 Sara Zdeb, Senior Counsel (Minority)

7 Joseph Charlet, Counsel (Minority)

8 Bradley Weinsheimer, Associate Deputy Attorney General DOJ

9 Patrick Findlay, Special Counsel, DOJ NSD

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

11 General Counsel

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

13 Assistant General Counsel

14 [REDACTED], US DOJ FBI Supervisory Special Agent,

15 Office of Congressional Affairs

16 [REDACTED], FBI OGC

17 [REDACTED], Senior Counsel DOJ OLA

18 [REDACTED], DOJ OLA

19

20 Desirae S. Jura, Court Reporter

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(No Exhibits were marked.)

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## P R O C E E D I N G S

1  
2 Mr. Somers: This is a transcribed interview of  
3 Dan Boente. Chairman Graham requested this interview as  
4 part of the investigation by the Senate Judiciary Committee  
5 in the matters related to the Justice Department's and the  
6 FBI's handling of the Crossfire Hurricane investigation,  
7 including the applications for and renewals of the Foreign  
8 Intelligence Surveillance Act Warrant on Carter Page.

## EXAMINATION

9  
10 BY MR. SOMERS:

11 Q. Will the witness please state his name and  
12 current position with the FBI for the record.

13 A. My name is Dana Boente, and I'm the General  
14 Counsel.

15 Q. On behalf of Chairman Graham, I want to thank  
16 you for appearing today, and we appreciate your willingness  
17 to appear voluntarily.

18 My name is Zachary Somers. I'm the Majority  
19 Chief Investigative Counsel for the Senate Judiciary  
20 Committee. I would now like to ask everyone else here in  
21 the room to identify themselves for the record.

22 Mr. Baker: Arthur Baker, senior investigative  
23 counsel, Senate Judiciary Committee, majority staff,  
24 Chairman Graham.

25 Ms. Zdeb: Sara Zdeb, senior counsel with the

1 committee's minority staff. We're also expecting Heather  
2 Sawyer, who is Senator Feinstein's staff director and chief  
3 counsel.

4 Mr. Charlet: Jeremy Charlet, with the minority  
5 staff.

6 Mr. Findlay: Patrick Findlay, general counsel,  
7 National Security Division, Department of Justice.

8 [REDACTED]: [REDACTED], FBI OGC.

9 Mr. Weinsheimer: Brad Weinsheimer, with the  
10 Department of Justice.

11 [REDACTED]: [REDACTED], FBI OGC.

12 [REDACTED]: [REDACTED], FBI OGC.

13 [REDACTED]: [REDACTED], FBI OCA.

14 [REDACTED]: [REDACTED], DOJ OLA.

15 [REDACTED]: [REDACTED], DOJ OLA.

16 BY MR. SOMERS:

17 Q. The Federal Rules of Civil Procedure do not  
18 apply in this setting, but there are some guidelines that  
19 we follow that I would like to go over.

20 Our questioning will proceed in rounds. The  
21 majority will ask questions for the first hour, and then  
22 the minority will have an opportunity to ask questions for  
23 an equal period of time. We will go back and forth in this  
24 manner until there are no more questions and the interview  
25 is over.

1           Typically we take a short break at the end of  
2 each hour of questions, but let us know if you would like  
3 to take a break prior to that.

4           As I noted earlier, you're appearing  
5 voluntarily. Accordingly, we anticipate that our questions  
6 will receive complete responses. To the extent that you  
7 decline to answer our questions or if counsel instructs you  
8 not to answer, we will consider whether a subpoena is  
9 necessary.

10           As you can see, there is an official reporter  
11 taking down everything that is said to make a written  
12 record, so we ask that you give verbal responses to all  
13 questions.

14           Do you understand that?

15           A.     Yes, sir.

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

21           If you have any questions or if you do not  
22 understand one of our questions, please let us know. If  
23 you honestly don't know the answer to a question or do not  
24 remember it, it is best not to guess. Please give us your  
25 best recollection; and it is okay to tell us if you learned

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

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

8 Do you understand that?

9 A. Yes, sir.

10 Q. This also applies to questions posed by  
11 congressional staff in the interview.

12 A. Yes, sir.

13 Q. Witnesses who knowingly provide false testimony  
14 could be subject to criminal prosecution for perjury or for  
15 making false statements.

16 Do you understand this?

17 A. Yes, sir.

18 Q. Is there any reason you are unable to provide  
19 truthful answers to today's questions?

20 A. No, sir.

21 Q. Finally, we ask that you not speak to anyone  
22 about what we discuss in this interview outside of who is  
23 in this hearing room today in order to preserve the  
24 integrity of our investigation.

25 That is the end of my preamble. We will now

1 begin our first round of questioning. It is about 10:08.

2 Have you read the IG's December 2018 report  
3 into the Carter Page FISA application in Crossfire  
4 Hurricane?

5 A. Yes, sir.

6 Q. Other than the attorneys from DOJ and FBI, did  
7 you speak with anyone in preparation for today's interview?

8 A. I did not.

9 Q. Could you please give us a brief rundown of the  
10 positions you've held since you became U.S. District  
11 Attorney for the Eastern District of Virginia in 2013.

12 A. Since 2013, I was U.S. Attorney up until  
13 January of 2018. I have held interim or acting positions  
14 as the Attorney General, as the Deputy Attorney General,  
15 and as the Assistant Attorney General for the National  
16 Security Division.

17 Q. While you were Acting Deputy Attorney General,  
18 during that whole time period, you were also the Acting  
19 Attorney General for Crossfire Hurricane?

20 A. Yes, sir.

21 Q. What all was covered as the Acting Attorney  
22 General?

23 A. Technically, probably not for the entire  
24 period. It's a little bit more nuanced. I don't think  
25 that the Attorney General recused himself. I don't have a

1 precise date for you, sir, but I believe it was the end of  
2 February or sometime in March. So technically he would  
3 have been the Attorney General.

4 I'm not aware that he took any action or that  
5 he didn't, but I seem to recall his recusal was sometime  
6 later.

7 Q. It wasn't immediate, to your recollection.

8 A. Yes, sir.

9 Q. And what was, I guess, either covered by his  
10 recusal -- or what was your responsibility as the Acting  
11 Attorney General for Crossfire Hurricane?

12 A. As the Acting Attorney General, I would have  
13 been responsible, for the Department, for anything the  
14 Attorney General would have done with the Crossfire  
15 Hurricane investigation.

16 Q. Did it cover Russia more broadly than that, or  
17 was it simply limited to Crossfire Hurricane; do you  
18 recall?

19 A. Well, I'm not sure how much more broadly the  
20 Department had with matters concerning Russian attempts at  
21 influencing the election at that time. I just don't know  
22 if there were other matters concerning Russia that he would  
23 not have been recused from.

24 Q. In your career, approximately how many FISA  
25 applications have you worked on?

1           A.       It's a hard question. I always tell people  
2 it's a little different, because when you say "worked on  
3 them," I was an Assistant U.S. Attorney for many years, and  
4 you're a consumer of FISA information. So you receive the  
5 collections and things like that, but you don't actually  
6 work on the applications.

7                       So if I can limit my answer to January of 2017  
8 forward, I would say somewhere between 60 and 100, maybe.  
9 So it's a very rough estimate, because I would get -- when  
10 you say work on things, I would certainly get information  
11 as the Assistant Attorney General of the National Security  
12 Division, but I did not look at every FISA application.

13                      I will say that as the Deputy -- as the Acting  
14 Deputy from February through April, whatever the date was  
15 when Mr. Rosenstein took over, I would almost always be  
16 with Attorney General Sessions when he was presented with  
17 an application.

18           Q.       Did you sign other applications other than  
19 the --

20           A.       Yes.

21           Q.       -- second Carter Page renewal?

22           A.       Yes.

23           Q.       As --

24           A.       There was a ten-day period from the time Mrs.  
25 Yates left the Department until Attorney General Sessions

1 was confirmed. I think I was the only one at that time who  
2 had the ability to sign the FISA. So I signed all the  
3 applications in that ten-day gap. Then there were  
4 occasions when Attorney General Sessions was gone, and I  
5 would sign the applications during that period.

6 Q. During those two periods as Acting Attorney  
7 General -- well, as Acting Attorney General and Acting  
8 Deputy Attorney General, leaving aside the Carter Page FISA  
9 application, what was your typical review before you signed  
10 your signature on a FISA application?

11 A. I would be briefed on the application. There  
12 would be a cover page that summarizes the application and  
13 provides certain other information. Then I would look at  
14 portions of the application, but probably not read the  
15 entire application.

16 Q. So you looked at portions of all the  
17 applications that you signed?

18 A. I think so. It would depend on what the cover  
19 sheet said, and if there was anything that kind of caught  
20 my attention that I thought I needed to drill down on  
21 further, or perhaps if someone said something to me that I  
22 thought I needed to drill down on further.

23 Q. Were some of these renewals and some were new  
24 applications?

25 A. Yes, sir.

1 Q. Did you pay more attention to the new  
2 applications than the -- pay attention is my word.

3 A. Yeah.

4 Q. -- than to the renewals?

5 A. I don't -- no. The renewals always gave me  
6 some interest because they would outline what, if anything,  
7 had not been reviewed in the collection. It would give you  
8 a little summary. And I was usually concerned about  
9 collections where we had been reviewing things. So, you  
10 know, for various reasons. It might be in my mind, is  
11 there a risk involved? It might be in my mind, why aren't  
12 we doing collection if we aren't reviewing things? So kind  
13 of a difference.

14 Q. You're saying you were reviewing things?

15 A. There's a section on the summary page that  
16 tells how many products have been collected and what has  
17 not been reviewed, if I recall correctly. So that's what  
18 I'm going by. Like, you know, thousands collected, but  
19 very few reviewed or not reviewed yet, That usually gave me  
20 some concerns.

21 Q. On the summary, was there also -- when you say  
22 what was new, was it renewals of the summary page that,  
23 say, we collected -- is it all the information collected  
24 under this FISA, or is there a breakdown of what's new  
25 since the last renewal?

1           A.       Well, I want to make sure we're not talking  
2 about two different things. One would just be numerics,  
3 and the other would be a narrative body, which might  
4 explain something that was specifically of interest to the  
5 investigative agency or the attorneys. Am I not helping  
6 you?

7           Q.       I'm just trying to understand. In the Carter  
8 Page -- I not asking specifically about Carter Page -- but  
9 in the Carter Page instance, you were signing the second  
10 renewal.

11          A.       Yes, sir.

12          Q.       So there would have been two previous FISAs  
13 prior to that?

14          A.       Yes, sir.

15          Q.       So when you get the summary page, for instance,  
16 on Carter Page and it says we collected A, B, and C, could  
17 A, B, and C all have been collected from the first FISA  
18 warrant and nothing collected from the renewal? Or does it  
19 say this is the new stuff we collected?

20          A.       Well, that certainly could be the case. Just  
21 generically, on a FISA collection, you could have collected  
22 from the first application and not the second. Typically,  
23 that is not what happened. Typically what happens is you  
24 don't get collection early, and then you start to get  
25 collection.

1 Q. What other types of things are on the summary  
2 page?

3 A. A little bit of personal information on the  
4 person. You know, parts of the collection. Perhaps what  
5 they're looking at. It varies from summary to summary,  
6 depending on who prepared it.

7 Q. But there's a description certainly of the  
8 investigation?

9 A. You understand the investigation, or the broad  
10 outlines of it.

11 BY MR. BAKER:

12 Q. And you have people that are there that have  
13 briefed you on it before you sign it.

14 A. Yes.

15 Q. And there's, I'm guessing, certainly resources  
16 within the Department or at the FBI that you or staff could  
17 reach out to if there's something that needs clarification?

18 A. Yes, sir.

19 Q. There's no expectation that you read every  
20 single page of every application that you're going to sign?

21 A. No, sir.

22 Q. And those have been in a lot of different  
23 places in both the FBI or the DOJ before they get to you in  
24 either of the capacities that you signed?

25 A. There's a very extensive review process.

1 Q. And a lot of back and forth to clarify things  
2 long before it gets up to you in an acting capacity as the  
3 AG?

4 A. Yes, sir.

5 BY MR. SOMERS:

6 Q. Who briefed you on the FISAs?

7 A. Normally, it would have been Stu Evans and  
8 Tashina Gauhar. That does not mean there might not have  
9 been others, but they would have been the primary  
10 individuals.

11 Q. Was it the same people in that ten-day window  
12 when you were the Acting Attorney General for everything  
13 and the window when you were acting Deputy Attorney  
14 General?

15 Was it the same people briefing you?

16 A. Yes, sir.

17 BY MR. BAKER:

18 Q. As part of their briefing, would they highlight  
19 things they thought maybe you need to look at, and maybe  
20 offer opinions on things that you might need clarification  
21 on before you even go into it?

22 A. In some applications, certainly.

23 BY MR. SOMERS:

24 Q. Are you familiar with the Woods Procedures?

25 A. I am.

1           ██████████: I just want to clarify an  
2 administrative thing, because you may have said it and I  
3 just missed it. We are in an unclassified setting today,  
4 right?

5           Mr. Somers: That's correct. I'm sorry.

6           BY MR. SOMERS:

7           Q.     How did you gain familiarity with the Woods  
8 Procedures?

9           A.     Well, the vast majority of it, after I became  
10 General Counsel.

11          Q.     At FBI?

12          A.     Yes, sir.

13          Q.     So what was your knowledge prior to  
14 becoming -- for instance, what was your knowledge when you  
15 were the acting Deputy Attorney General of the Woods  
16 Procedures?

17          A.     That they existed and what their basic purpose  
18 is.

19          Q.     But you didn't know the specific requirements?

20          A.     I did not have anywhere near the information at  
21 that time that I do now.

22          Q.     Have you ever looked at a Woods file?

23          A.     I beg your pardon?

24          Q.     Have you ever reviewed a Woods file?

25          A.     I have not.

1 Q. You have not.

2 BY MR. BAKER:

3 Q. To be clear, a Woods file is a mechanism that  
4 the FBI has instituted?

5 A. It's also referred to as an accuracy subfile.  
6 And I've seen portions of Woods files before for a specific  
7 matter concerning a FISA application.

8 BY MR. SOMERS:

9 Q. You mean while over at DOJ?

10 A. No, sir.

11 Q. Oh.

12 A. While I was General Counsel.

13 Q. You mean information that was in the Woods  
14 file, or you were told to look at specific pages?

15 A. No. Someone would provide me with something  
16 that was in the Woods file.

17 BY MR. BAKER:

18 Q. So the Woods file isn't something that anybody  
19 at DOJ that's involved in the FISA process would be looking  
20 at. It's a mechanism that the FBI uses to ensure accuracy.  
21 As the FISA moves through the FBI, certifications are made  
22 that it's accurate, and that's an underlying mechanism for  
23 those certifications?

24 A. Well, it's certainly an FBI document. It is my  
25 understanding that those documents are available to the

1 Office of Intelligence attorneys on request. And, indeed,  
2 that happens.

3 Q. But it's nothing they would have to look at as  
4 part of their review process. If they had questions, they  
5 could. It seems to me it's more of an FBI mechanism to  
6 ensure accuracy before the package goes across the street.

7 A. I don't know if I feel I can answer what they  
8 have to look at. I think everyone involved in the process  
9 should have enough information that they feel the  
10 application is accurate.

11 BY MR. SOMERS:

12 Q. You said that attorneys within the Office of  
13 Intelligence at NSD have the ability to review a Woods file  
14 if they want?

15 A. Certainly.

16 Q. What's a sensitive investigative matter?

17 A. It deals with certain categories of  
18 investigations. A cleric, for instance, would be in, I  
19 think, in a SIM. It is defined in the DIOG. So maybe I  
20 shouldn't -- but it's certain categories of investigation  
21 that perhaps have higher profile or higher sensitivities.

22 Q. How many SIMs have you worked on in your  
23 career?

24 A. Not that many.

25 Q. Did you work on any out of the Eastern District

1 of Virginia?

2 A. Not that I recall. But if I might expand on  
3 that. I don't have the DIOG in front of me. So, for  
4 instance, the Bureau would have the capacity to designate  
5 something as a SIM that I might not even know about as the  
6 U.S. Attorney or the first assistant. I have a couple of  
7 examples.

8 Jeffrey Sterling, who we prosecuted, and John  
9 Kiriakou, who we prosecuted, were both CIA case officers.  
10 By the time it got to me, the fact that it was a SIM or not  
11 was not terribly important. The Bureau could have very  
12 well made those SIMs.

13 BY MR. BAKER:

14 Q. Would it be fair to say that if a case is  
15 opened as a SIM, there's administrative consequences with  
16 the Bureau --

17 A. Yes.

18 Q. -- and heightened signature levels or approvals  
19 that are higher for certain techniques. By the time it got  
20 to you, as the AUSA or U.S. Attorney, it's an open case  
21 that you're looking at for prosecutorial reasons?

22 A. Yes, sir.

23 BY MR. SOMERS:

24 Q. Were you aware that Midyear Exam was a SIM?

25 A. I don't think so. But it's difficult to

1 imagine that it was not.

2 Q. Your office had some involvement in the Midyear  
3 Exam, correct?

4 A. Pretty minor. I had a couple of attorneys that  
5 worked on it.

6 Q. When they were working on it, they were under  
7 your supervision? Or they were under the supervision of  
8 the Main Justice?

9 A. They were really under the Main Justice  
10 supervision; and it was made clear to me when they went on  
11 it that it was a Main Justice case.

12 Q. Are you familiar with the FBI term "Headquarter  
13 Special"?

14 A. I wouldn't say familiar with it. It sounds as  
15 though I may have heard of it.

16 Q. But it's not something you're familiar with?

17 A. Only to the extent that I have heard it. I  
18 don't know that it has an official definition within the  
19 Bureau or whether it's slang. I can't tell you the  
20 difference. I do know that we have instituted policies  
21 after Midyear Exam to limit and correct that, have  
22 heightened standards, to anything that's going to be run  
23 out of headquarters.

24 Q. Is the FBI still running investigations out of  
25 headquarters? Or instead of saying Headquarter Special.

1 Not that they have anything active. I guess I'm wondering  
2 what the policy is as to whether FBI can still do a  
3 Headquarters Special.

4 A. I don't have the policy in my head. I think  
5 that there are very limited examples where they could run  
6 something out of headquarters.

7 Q. Is that a policy change since the Midyear Exam?

8 A. It's my understanding that that is a distinct  
9 policy change since Midyear Exam.

10 BY MR. BAKER:

11 Q. I want to ask a couple of questions, separate  
12 and apart from Midyear Exam or Crossfire Hurricane, but  
13 about your tenure as the General Counsel.

14 When you went over to the FBI -- and we've  
15 heard some testimony about this, I think, on the House  
16 side. We also have had individuals privately speak about  
17 it. Were you given any kind of mandate or request in your  
18 new role as General Counsel to address morale in the  
19 General Counsel's Office?

20 It's our understanding that there was a morale  
21 issue. There were a large number of EEO complaints that  
22 had been filed, and we were told that there were so many  
23 complaints coming from the General Counsel's Office  
24 regarding EEO matters that Main Justice told maybe a  
25 predecessor that settle some of these things. There's way

1 too many coming out of the FBI. And then, sort of along  
2 with that, my understanding is there's something called a  
3 climate survey that the FBI does to sort of take the  
4 temperature, a pulse check, of the various divisions to see  
5 if there's problems with morale and maybe retention issues  
6 or whatnot.

7 I'd like you to address that to the extent that  
8 you know. I'm really interested in if you were told there  
9 was an issue for you to address on the administrative side  
10 of the things.

11 [REDACTED]: Mr. Baker, just to be aware, I think  
12 you're bordering in a deliberative process -- issues you're  
13 talking about whether or not Mr. Boente was directed by the  
14 Department or anyone at the Bureau to settle or address  
15 cases or do other things to address potential employee  
16 morale.

17 I do understand also that prior to starting  
18 today's interview, we sort of discussed caveating most of  
19 his session in his role at the Department, serving and  
20 talking about his role as the General Counsel of the FBI.  
21 I would ask to get back to his role at the Department and  
22 to avoid his role as General Counsel of the FBI.

23 Mr. Baker: Well, I would ask that, to the  
24 extent that he has a thought of -- and any deliberation is  
25 fine. I don't necessarily need to know that. But I think

1 as our role as an oversight entity of the FBI, and we have  
2 a case where the Inspector General has found 17 significant  
3 errors and there's some other allegations about misconduct  
4 in the General Counsel's Office, I would just be curious if  
5 there's an administrative issue or a nonlegal issue going  
6 on over there that maybe needs to be addressed.

7           You can put whatever caveat you want on it, but  
8 I would just be curious if, as a newcomer to the FBI and a  
9 top legal officer of the FBI, if once he got situated at  
10 his desk and opened the drapes, there's a problem in  
11 General Counsel-land that doesn't relate to legalese; it  
12 just relates to personnel issues that maybe had been  
13 festering for a long time.

14           The Witness: I was not told anything about  
15 morale that I recall. I think I would recall if I had been  
16 told that. It might have had a bearing on whether I took  
17 the job or not.

18           But, Mr. Baker, I can say that I've been a  
19 supervisor since 2005 in various capacities at the  
20 Department of Justice. People will frequently ask you how  
21 morale is in the U.S. Attorney's Office. I was a U.S.  
22 Attorney for a long time in Virginia and for almost a year  
23 in New Orleans, and I've consistently said this to people:  
24 If you're at the top, you're the last person to be told.  
25 Nobody comes up and says it really sucks around here. They

1 just don't say that to the U.S. Attorney. So I had no  
2 indication that there was a problem.

3 BY MR. BAKER:

4 Q. Were you told anything at the Bureau about  
5 climate surveys, that your division is all in the red or  
6 trending red, or whatever they do?

7 A. No. I don't recall anybody telling me about  
8 climate surveys before I got there. I'm obviously aware  
9 that they do such a thing, and they do the same thing at  
10 U.S. Attorney's Offices. They don't call it a climate  
11 survey.

12 Q. So you're not aware that there was a problem  
13 climate survey in the General Counsel's Office?

14 A. I was not. I have seen the climate surveys  
15 since I've been there. As supervisor, it's always your  
16 goal to improve them. I think if you think that they're  
17 good enough, you're wrong. So it's always your goal to try  
18 to improve.

19 Q. What was your impression of the climate surveys  
20 that you saw?

21 A. Well, I don't know that I had an impression. I  
22 mean, my impression -- and this bears on my recollection,  
23 because the climate surveys of my predecessor were not a  
24 big deal to me. I would rather be concerned about the ones  
25 when I was running the office -- was that they could have

1 been better. They probably could have been worse, also.

2 Q. Do you recall seeing a lot of red?

3 A. Not really. I mean, they all have red on them  
4 in some aspects. But I can't say I recall specifically  
5 that there was anything that struck me as something  
6 that -- well, actually, we get poor marks every year for  
7 technology, you know, from our employees. And that has  
8 struck me. I mean, that kind of goes across the board that  
9 it does not change as much as I would like to change it.

10 Q. And that's more of an FBI-wide thing, I would  
11 think. But you were never called in by the Director and  
12 said, "We've got to get morale up"?

13 A. No, sir.

14 Q. Okay.

15 A. No, sir.

16 Q. Thank you.

17 BY MR. SOMERS:

18 Q. How many attorneys are there in OGC?

19 A. I think there are 194 FSLs.

20 Q. And how many of them would have any  
21 responsibility for FISA applications or involvement in a  
22 FISA application?

23 A. Yeah. In a FISA application, maybe 65. It  
24 depends, when you consider the review process and  
25 everything through it. You know, they can come out of

1 counterintelligence or counterterrorism. So attorneys are  
2 doing a lot of things besides FISA applications. But my  
3 point is they don't have 60 people working on FISA  
4 applications full time.

5 Q. But there's about 60 or so that could  
6 potentially?

7 A. That could touch the process. It's a rough  
8 estimate. The people sitting behind me could probably give  
9 you a better answer. I know they aren't the witness.

10 Q. On a typical FISA application, how many  
11 attorneys and general counsel would be involved in a  
12 typical single FISA application?

13 A. Four or five.

14 Q. And would the general counsel see all FISA  
15 applications?

16 A. No.

17 Q. When did you become aware of the Crossfire  
18 Hurricane investigation?

19 A. Well, I became aware of it, I believe, in  
20 February of '17. But I'm not entirely certain when I knew  
21 it by name.

22 Q. Does that mean, did you have knowledge of it  
23 before February of 2017 without knowing it by name you're  
24 saying?

25 A. No. I think that's when I learned of it. I

1 don't know when I learned the actual name of Crossfire  
2 Hurricane. At the Department, we don't use code names  
3 nearly as much as they do at the Bureau.

4 Q. So in February '17, what were you doing when  
5 you learned of Crossfire Hurricane?

6 A. At some point after I became the Acting  
7 Attorney General, I read the ICA, and knew there were  
8 allegations of Russian interference in the 2016 election.  
9 And I somehow learned there was an investigation and asked  
10 to be briefed on it.

11 Q. And -- this is hard. You were the acting.  
12 When you were actually the Acting Attorney General for the  
13 whole Department, you were informed about Crossfire  
14 Hurricane or while you were acting Deputy Attorney General?

15 A. Probably acting Deputy Attorney General.

16 Q. So it's not something you were told about the  
17 day you stepped in as Acting Attorney General?

18 A. To provide a little context, my first two weeks  
19 were almost exclusively dealing with immigration.

20 Q. So who told you about Crossfire Hurricane?

21 A. "Guess" is a bad word to use. I'm presuming it  
22 was Tash Gauhar.

23 Q. But you went out and asked for the briefing.  
24 It wasn't offered to you. Is that what you're saying?

25 A. Yeah. After I learned about different things,

1 I said, well -- as the Deputy, you always have that option  
2 in any investigation. I felt that it was important to know  
3 something about it.

4 Q. What were you told when you were first briefed  
5 on it?

6 A. Well, you're testing my memory.

7 Q. I understand. Not the first time. But when  
8 you were first made aware of the general timeframe.

9 A. Well, it's almost three years ago. I think --

10 Q. I just want to understand, you had this  
11 investigation. What was the investigation when you were  
12 first told about it?

13 A. Well, it was Russian attempts to influence the  
14 2016 election.

15 Q. Were you told about possible Trump campaign  
16 involvement in those efforts?

17 A. I don't know if and when I was told that. I  
18 think -- I recall being told at some point -- maybe not  
19 February -- between February and April, because thankfully  
20 my involvement ended in April, that there was no evidence  
21 of collusion with the Trump campaign.

22 Q. Were you told about any of the individual  
23 people that were being investigated, Carter Page, George  
24 Papadopoulos?

25 A. I believe that the main targets were told to

1 me.

2 Q. So you were told the main targets. Some of  
3 them you would know probably just from the news were  
4 associated, like Manafort and Flynn, for a while the  
5 National Security Advisor. But were you told that Carter  
6 Page and George Papadopoulos were associated with the Trump  
7 campaign?

8 A. I think -- Mr. Page's association with the  
9 Trump campaign had long ended by February. So I believe I  
10 was told he was previously associated with the campaign.

11 Q. And you were told about George Papadopoulos?

12 A. I was told about Mr. Papadopoulos. I'm a  
13 little less certain -- I knew he had at one time been  
14 associated with the campaign. I'm a little bit less  
15 certain about his exit from his association with the Trump  
16 campaign.

17 Q. Were you told that Paul Manafort was under  
18 investigation as part of the Crossfire Hurricane?

19 A. I was told that there was -- there was a  
20 separate investigation in Virginia at that time.

21 Q. But you were briefed on as part of the  
22 Crossfire Hurricane as well?

23 A. Well, it had always been kept separate; and I  
24 think that, for whatever reason, the Bureau wanted it kept  
25 separate at that time.

1 Q. What about General Flynn? Were you briefed on  
2 General Flynn?

3 Mr. Weinsheimer: Mr. Somers, he has already  
4 indicated that he was told about Mr. Flynn. I just wanted  
5 to indicate that Flynn obviously is a case that's pending  
6 litigation in two courts. So we would object to any  
7 questions specifically about what he knew about the Flynn  
8 investigation or its case because of the pending  
9 investigations.

10 Mr. Somers: You object to any question we'd  
11 ask him what he knew about Flynn in February to April of  
12 2017?

13 Mr. Weinsheimer: Correct.

14 BY MR. SOMERS:

15 Q. What was your general understanding of what was  
16 being investigated for Papadopoulos and Page and Manafort  
17 to the extent that it related to the campaign, leaving  
18 aside whatever other investigation there was of Manafort?

19 A. I thought that they were primarily -- it may  
20 have been something else. But -- so leaving it to the  
21 other three -- Papadopoulos, Page, and Manafort -- I  
22 thought that they were fair violations. Mr. Papadopoulos  
23 may have been a thousand and one. I'm not sure.

24 Q. How many briefings did you receive the time you  
25 took over as Acting Attorney General to the time that Rod

1     Rosenstein was confirmed? How many briefings did you  
2     receive on Crossfire Hurricane?

3             A.     Estimating?

4             Q.     Yeah.

5             A.     Five or six.

6             Q.     And who generally -- what's the universe, that  
7     you can recall, of people that briefed you on Crossfire?

8             A.     Generally, people within NSD who had more  
9     knowledge of the case.

10            Q.     And was Ms. Gauhar involved in the briefing?

11            A.     Yes, she would have been involved.

12            Q.     Anyone else from Deputy Attorney General?

13            A.     Well, James Crowell certainly would have been  
14     there for some of them.

15            Q.     How frequent were these briefings?

16            A.     Well, I think we tried to do them every two  
17     weeks. But that could have been interrupted by schedule.

18            Q.     What was being covered? Is this the progress  
19     of the case, or is this all to get you up to speed on  
20     the --

21            A.     Both.

22            Q.     -- background of the case?

23            A.     Both.

24            BY MR. BAKER:

25            Q.     Would any FBI people have ever been as part of

1 those briefings or this is all DOJ?

2 A. I think that there may have been some FBI  
3 people for one or two of the briefings. I seem to recall  
4 that there was a -- at least at one at them there was a  
5 unit chief who attended because the Bureau was going to  
6 stand up a special unit to do the investigation. And the  
7 man's first name was Paul. That's --

8 Q. First name Paul. And he was a unit chief?

9 A. I seem to recall that's the case.

10 BY MR. SOMERS:

11 Q. What do you mean? I don't understand that,  
12 stand up. Stand up a unit?

13 A. Have a dedicated unit who would just work on  
14 the Russian investigation.

15 Q. So the FBI briefed you on that?

16 A. Briefed or told me those were their plans might  
17 be a better way to put it.

18 Q. Did that happen?

19 A. I seem to think that it did not.

20 Q. Did you have any input on whether it --

21 A. I did not and didn't expect to have any.

22 BY MR. BAKER:

23 Q. Why would that have been something the FBI felt  
24 it needed to brief someone of your level on, that they  
25 would be opening or standing up a new unit? It seems so

1 administrative.

2 A. I can't answer that question.

3 Q. Okay.

4 BY MR. SOMERS:

5 Q. Did you ever talk to Jim Comey about Crossfire  
6 Hurricane?

7 A. I discussed his testimony before SSIC.

8 Q. What did you discuss? This is while you were  
9 acting Deputy Attorney General?

10 A. Yes, sir.

11 Q. And what did you discuss with him?

12 A. Just kind of the parameters of his testimony,  
13 what he planned to testify about.

14 Q. Did he ask you about revealing the fact that  
15 there was an investigation?

16 A. We discussed that.

17 Q. What was your opinion on whether he  
18 should -- or could -- should or could reveal if there was  
19 an investigation?

20 A. Well, I certainly felt that he could. Should  
21 is a much more difficult question; but I ceded to his  
22 request to brief on it.

23 Q. So you did not tell him not to brief?

24 A. That is correct.

25 Q. Why did he feel he needed to, if you recall,

1 mention the investigation in his testimony?

2 A. I think he said -- again, it's been three  
3 years -- that the Intelligence Committee should know about  
4 or understand that a maligned foreign power had attempted  
5 to affect our presidential election.

6 Q. You had some reasons you thought maybe he  
7 should not do that?

8 A. No. It's difficult. We don't like to brief on  
9 pending criminal investigations as a matter of policy. But  
10 the argument is not without force that the Intelligence  
11 Committees should know about what could be described as an  
12 attack on democracy by a foreign power.

13 Q. Did you ever talk to Andy McCabe about  
14 Crossfire?

15 A. I could have. I have no recollection of  
16 discussing it specifically with him in the absence of the  
17 Director. Whether he had a conversation with the Director,  
18 I can't specifically recall.

19 Q. Was this meeting with Comey in person or was it  
20 over the phone?

21 A. That I can't -- my recollection -- again, three  
22 years ago. I think it was over the phone, but it could  
23 have been -- we meet with them on a regular basis to  
24 discuss national security issues. So it could have been  
25 after one of those meetings.

1 Q. But they were not specific. You talked a few  
2 minutes ago about briefings you received on Crossfire  
3 Hurricane. Either Comey or McCabe were in those briefings?

4 A. Not to my recollection. If they were, it was a  
5 one-off for some reason that I don't recall. But it was  
6 not that they regularly attended those briefings.

7 Q. Did you ever talk to Jim Baker about Crossfire?

8 A. Not that I recall.

9 Q. Did he directly precede you as general counsel  
10 or was there a --

11 A. There was an interim.

12 Q. Did you ever talk to Bill Priestap about  
13 Crossfire Hurricane?

14 A. I feel certain I did after I got to the Bureau  
15 as General Counsel. Perhaps before, but I know I did after  
16 I was at the Bureau.

17 Q. The same question, with Peter Strzok?

18 A. I don't think -- well, I didn't talk to Peter  
19 Strzok about Crossfire Hurricane after I got to the Bureau.  
20 I'm pretty solid on that.

21 Q. Did you talk to him while you were at DOJ or  
22 NSD or as acting?

23 A. There may have been, again, some contact with  
24 him. I don't believe he was part of any regular briefing,  
25 and I cannot recall anything specific Pete would have said.

1 Q. So other than -- you mentioned the unit chief  
2 earlier that was possibly at a prior briefing talking about  
3 standing up a unit to specifically investigate Crossfire  
4 Hurricane. Do you recall anyone from the FBI that was in  
5 your briefings while you were the acting Deputy Attorney  
6 General or --

7 A. I don't recall anyone. I'm not saying there  
8 wasn't. I just don't recall anyone.

9 Q. What was your role in Crossfire Hurricane as  
10 the acting head of NSD?

11 A. Much less than it had been as Deputy Attorney  
12 General. I don't have much recollection of dealing with it  
13 after I became the AAG of NSD or the acting AAG. I  
14 understand that I had a meeting on April 26. I think that  
15 was the day after Mr. Rosenstein was appointed and  
16 confirmed. I know I discussed the case with Mr. Rosenstein  
17 as kind of a handoff. I don't know whether he was at that  
18 meeting or not, but it strikes me that -- I would have  
19 thought he would have been, but I just don't know.

20 Q. Did you have any role of the third and  
21 final -- I want to say -- Carter Page FISA application in  
22 your role at NSD?

23 A. I can't help you anything more than the IG  
24 report says, which is I was given a copy of the  
25 application. But I don't recall receiving it.

1 Q. So you don't recall if you did anything with  
2 it?

3 A. No, sir.

4 Q. The IG report mentions on page 73 that you had  
5 concerns that the Crossfire Hurricane investigation lacked  
6 cohesion.

7 Do you recall those concerns?

8 A. Yes, sir.

9 Q. And what were they? Or what --

10 A. It was my understanding that it was being run  
11 out of three different offices, the Washington Field  
12 Office, the New York Field Office, and the Chicago Field  
13 Office. I just felt it should be pulled together.

14 Q. But you didn't take any action to get it pulled  
15 together?

16 A. No. I did say I wanted it run out of the  
17 Eastern District of Virginia.

18 Q. So that may have been why you got the briefing  
19 on the standing up a unit, or briefing or whatever it was,  
20 had the conversation about standing up a unit?

21 A. It could have been. But as Mr. Baker  
22 indicated, we aren't normally consulted on staffing issues  
23 on any case unless -- as U.S. Attorney unless I had a  
24 complaint about something.

25 Q. Do you mean lack of cohesion at the FBI, or do

1 you mean lack of cohesion at the Department generally?

2 A. Probably more at the Department, which was  
3 something I actually had the responsibility for at that  
4 time.

5 Q. What was the lack of cohesion at the  
6 Department?

7 A. As I said, it was being run out of three  
8 different U.S. Attorneys Offices.

9 Q. At the field offices of the FBI. So we have  
10 what we have, which is what's in the IG report, indicates  
11 that -- we can see that it was being run out of different  
12 field offices at the FBI. You're saying as it's being run  
13 out of the different field offices of the FBI, it's also  
14 being run out of different U.S. Attorneys offices?

15 A. Yes, sir.

16 Q. So would those correspond with the particular  
17 field office location by looking at the -- so in here, for  
18 instance, it says the Carter Page investigation was being  
19 run out of the -- and I'm looking at page 82 of the IG  
20 report -- was being run out of New York Field Office.

21 Does that mean that a U.S. Attorney's Office in  
22 New York correspondingly was working on the case?

23 A. It wouldn't have to, but that would generally  
24 be the case.

25 Q. You don't recall which U.S. Attorney's Office

1 was working on Carter Page?

2 A. I believe it was the Southern District of New  
3 York.

4 Q. And it says that Washington field was running  
5 the Michael Flynn investigation; it says the Chicago Field  
6 Office was running the George Papadopoulos investigation.  
7 So you presume, per the Papadopoulos investigation, that  
8 the Illinois U.S. Attorney's Office was --

9 A. Northern District of Illinois is my  
10 understanding.

11 Q. And Paul Manafort was being run out of the  
12 Washington field. I guess there were two prosecutions of  
13 Paul Manafort, so it's split between two U.S. Attorney's  
14 Offices?

15 A. (Nodding head.)

16 Q. But mainly, the lack of cohesion that I just  
17 referred to on page 73 was a Department issue, not an FBI  
18 issue as you recall?

19 A. Well, that's what I recall was my concern at  
20 that time.

21 Q. Was there supervision from the Department over  
22 these various U.S. Attorney's Offices that were working on  
23 Crossfire Hurricane? Was there a central place for the  
24 Department they were reporting to?

25 A. I didn't get the sense that there was.

1 Q. So as far as the Department was concerned, the  
2 top was kind of the individual U.S. Attorney's Offices?

3 A. Yes, sir.

4 Q. So it wasn't somebody at NSD that had  
5 visibility on these four investigations?

6 A. Not that I recall.

7 BY MR. BAKER:

8 Q. I want to go back. Just a couple minutes ago  
9 you had indicated conversations that you had had at some  
10 time or another with Mr. Comey, Mr. McCabe, Mr. Priestap,  
11 and Strzok, not all together, but at different times.

12 You, I think without question, have had a very  
13 long and distinguished career at the Department of Justice  
14 in a lot of different capacities, a lot of high-level  
15 capacities. And when I read some of your concerns that  
16 were articulated in the IG report and some of the things  
17 you say, you seem very able to look -- when we talked about  
18 FISAs earlier, to look at things that need to be looked at,  
19 maybe not get into the weeds on things you don't need to  
20 look at.

21 I'm curious, did you have a relationship with  
22 Mr. Comey before he was the director, when he was in other  
23 capacities at the Department?

24 A. I've known Mr. Comey since he was an Assistant  
25 U.S. Attorney in Richmond, Virginia in 2001.

1 Q. And working with him, is that something that  
2 you have confidence in his abilities, or you did?

3 A. Well, when you say worked with him, he was in  
4 Richmond; I was in Alexandria. So we didn't work together,  
5 but I knew him. I would describe us as personal  
6 acquaintances as opposed to friends. I've never socialized  
7 with him or worked on a case with him or been supervised or  
8 supervised him.

9 So -- I'm not sure what your question is. I  
10 want to correct it, though. I don't have a clear  
11 recollection of having -- the list of names you read off,  
12 Mr. Baker, I don't think I ever talked to Strzok. I mean,  
13 I may have, but nothing jumps out to me about the Crossfire  
14 Hurricane investigation.

15 I only talked to Mr. Priestap about -- well,  
16 again, nothing stands out. I certainly had substantive  
17 discussions about Crossfire Hurricane with Mr. Priestap  
18 after I became General Counsel in January of '18.

19 I could have talked to Mr. McCabe about  
20 Crossfire Hurricane when I was at the Department of  
21 Justice, but don't recall. Mr. McCabe left his position as  
22 deputy director the day I started at the Bureau. So I had  
23 no discussions with him over there, if that helps.

24 Q. It does. So did any of these people -- I get  
25 the impression that -- I understand that you didn't

1 necessarily work directly with Mr. Comey prior. But if you  
2 did have conversations with any of these individuals, were  
3 any of them people that you wanted other people in the room  
4 with you while you were talking to them or with them on the  
5 phone? Or these are people that you felt were competent  
6 individuals and you had no reason to question their  
7 abilities?

8 A. Yeah. I had no reason to question their  
9 abilities or wanted to have people in the room. I think  
10 sometimes other people wanted to be in the room on things,  
11 but that was not necessarily at my insistence.

12 Q. And not because these other people thought that  
13 you would be better served by having people in the room to  
14 hear what these FBI individuals might be saying, because  
15 these associates of yours had concerns about them?

16 A. You'd have to speak to them about what their  
17 concerns might have been. I think some people -- there had  
18 been a disagreement with the Bureau on issuing a public  
19 statement.

20 Q. Okay.

21 A. So that might have left people concerned.

22 Q. Thank you.

23 BY MR. SOMERS:

24 Q. Back to what we were discussing before. So  
25 what was, as you understood it, NSD's role in Crossfire

1 Hurricane?

2 A. Well, they had at least one attorney assigned  
3 to it. And, you know, it wasn't terribly robust, the  
4 investigation. I guess their role is that of a program  
5 manager. You understand, the Department is structured in  
6 that U.S. Attorneys report to the deputy, not to the  
7 National Security Division.

8 So to the extent they're running their  
9 investigations, they rely upon NSD for certain things, FISA  
10 and resources, expertise. But if it comes down to opening  
11 an investigation, closing an investigation, prosecuting  
12 someone, that is between the U.S. Attorney's Office and the  
13 Deputy Attorney General's Office.

14 Q. Who was the one U.S. Attorney who was assigned  
15 Crossfire Hurricane?

16 A. [REDACTED], while I was there.

17 Q. And his role would have been, if one of the  
18 U.S. Attorney's Offices needed something from NSD, they  
19 would come to him?

20 A. Well, he was actually working on the  
21 investigation for a time with an attorney in the U.S.  
22 Attorney's Office in Virginia. But it was a brief time,  
23 because by the time we started it up, I had left my role as  
24 the acting Deputy Attorney General and then shortly  
25 thereafter there became a special counsel.

1 Q. And this is a separate chain that he's on. As  
2 you said, he was assigned to Crossfire Hurricane. And then  
3 if they needed a FISA renewal, NSD's role in a FISA  
4 renewal?

5 A. I don't know as I sit here without documents.  
6 I would be very surprised if [REDACTED] had anything  
7 to do with FISA renewal because he wasn't in the Office of  
8 Intelligence.

9 Q. And he was permanently at NSD?

10 A. Yes, sir.

11 Q. Page 73 of the IG report says, Boente said that  
12 he had the impression that the investigation had not been  
13 moving with a sense of urgency, an impression that was  
14 based at least in part on not a lot of criminal proceedings  
15 being used.

16 Do you recall what you meant by "not a lot of  
17 criminal proceedings being used"?

18 A. I don't. Is that proceedings or process?

19 Q. It says proceedings.

20 A. Well, I would have thought maybe a lot of  
21 process. You know, not a lot of subpoenas, not a lot of  
22 2703(d) orders, preservation letters, email search  
23 warrants, things like that, is what -- I've actually read  
24 that. I always thought it said process. But it could  
25 be --

1 Q. Well --

2 A. No, no. I'm not questioning what it says as we  
3 sit here today and I don't --

4 Q. Your impression is fine, either way.

5 Mr. Baker: It says process?

6 Mr. Somers: It says process.

7 Mr. Baker: I'm sorry, I must have copied it  
8 wrong.

9 BY MR. BAKER:

10 Q. So you would have expected to see more criminal  
11 process in a --

12 A. In a robust investigation, yes.

13 Q. Against whom? Do you recall? The four targets  
14 or --

15 A. Well, in any investigation, as I said, you  
16 know, preservation letters to internet service providers.  
17 I'm just going about the normal things you would expect to  
18 see in an investigation. An email search warrant, you  
19 know, search warrants for travel records. The various  
20 things that you would look for in any kind of  
21 counterintelligence investigation.

22 Q. Do you recall --

23 A. Financial records, for instance, if you're  
24 concerned about payments.

25 Q. For all four individuals?

1           A.       It was a general sense that there had not  
2 been -- it had not been very robust.

3           Q.       Did you raise this concern with anyone?

4           A.       I am sure I discussed it with people in the  
5 Deputy Attorney General's Office and the National Security  
6 Division.

7           Q.       Did you get answers to why there wasn't a lot  
8 of criminal process?

9           A.       I don't recall.

10          Q.       But you didn't ask specifically for an answer,  
11 like, hey, what's going on here? I want to be briefed on  
12 why there's no criminal process being used in this matter?

13          A.       No. I may have. I just don't recall.

14          BY MR. BAKER:

15          Q.       Are these things, in your view, the FBI should  
16 have been doing?

17          A.       Well, in conjunction with the U.S. Attorney's  
18 Office. The Bureau cannot get a 2703(d) order on their  
19 own. They can't issue subpoenas for records on their own.  
20 They can't -- well, they normally would not be the people  
21 to --

22          Q.       Well, in your thought, it would be the FBI in  
23 conjunction with the U.S. Attorney's Office that they're  
24 working with?

25          A.       Yes, sir.

1 Q. At a much more fundamental level.

2 A. That's how every investigation works, is it's a  
3 joint process between the U.S. Attorney's Office and the  
4 FBI, or whatever investigative agency it is.

5 BY MR. SOMERS:

6 Q. Do you know who you would have expressed these  
7 concerns to about criminal process?

8 A. I would think, without being certain, I would  
9 have discussed it with Mary McCord, who was running NSD at  
10 that time.

11 Q. Do you recall --

12 A. As I sit here, I can't tell you why I knew  
13 that. Because you don't all of a sudden get to ODeputy  
14 Attorney General and have a file and pick up and say,  
15 here's the investigation, this is not happening. I had  
16 made inquiries about what was going on. I'm presuming, and  
17 my recollection is, not all that much.

18 Q. So this is something, though, that would have  
19 come up in the briefings we discussed earlier, and might  
20 have been a question you would have asked on a briefing?  
21 Or this is a separate inquiry?

22 A. I would think so.

23 Q. But you don't recall getting an answer as to  
24 why there wasn't much criminal process going on?

25 A. I do not.

1 Q. We're running a little low on time. According  
2 to the IG report, you provided Rod Rosenstein with the  
3 first briefing you received a day or two after being sworn  
4 in.

5 Do you recall what that briefing consisted of?

6 A. I do not. I recall, I think, two. The first  
7 one I wouldn't call a briefing.

8 So I recall having a list of about 35 things to  
9 talk to Mr. Rosenstein about, just various matters that  
10 needed to be done. I have to believe with certainty that  
11 the Crossfire Hurricane investigation was one of those 35  
12 matters, and so I discussed it with him.

13 And then there was a briefing shortly  
14 thereafter. And I thought it might have been on the 26th,  
15 but maybe not, which is the day after I think he was sworn  
16 in. That would have been a more substantive investigation  
17 given by the folks at NSD. Again, I don't have a specific  
18 recollection of it.

19 Q. Did you have regular conversations with  
20 Rosenstein after, while you were the head of NSD, about  
21 Crossfire Hurricane?

22 A. I don't recall if there were about Crossfire  
23 Hurricane. I'm not saying that there weren't discussions,  
24 but it was not on a regular basis something that was  
25 scheduled. I have known Rod for probably getting close to

1 20 years. So we could have had what I would describe as a  
2 sidebar conversation, but I don't recall that we were  
3 meeting on a regular basis on those as we were leak  
4 investigations.

5 Mr. Somers: I think our hour is up. So we can  
6 take a short break now and turn it over to the minority.

7 (Recess.)

8 Mr. Charlet: The time is 11:21, and we can go  
9 back on the record.

10 EXAMINATION

11 BY MR. CHARLET:

12 Q. Good morning, Mr. Boente. Thank you for being  
13 here. As we discussed earlier, my colleagues, Ms. Sawyer  
14 and Ms. Zdeb and I will be asking you a series of  
15 questions, but I'll go first.

16 As you know, the DOJ Inspector General issued a  
17 400-page report in December of last year entitled "Review  
18 of Four FISA Applications and Other Aspects of the FBI's  
19 Crossfire Hurricane Investigation."

20 The report detailed the results of a two-year  
21 investigation into the same topics we're discussing today.  
22 According to the report, the IG examined more than one  
23 million documents and interviewed more than 100 witnesses,  
24 including Christopher Steele and numerous current and  
25 former government employees.

1                   Did you cooperate with the OIG investigation?

2           A.     I did.

3           Q.     Thank you.  Were you interviewed as part of  
4 that investigation?

5           A.     I was.

6           Q.     Once?  More than once?

7           A.     Just once.

8           Q.     Okay.  For approximately how long?

9           A.     I would estimate somewhere between three and  
10 four hours.

11          Q.     Did you provide complete and truthful answers  
12 to the questions OIG asked during the course of the  
13 interview?

14          A.     To the best of my ability.

15          Q.     Did you or did the Justice Department provide  
16 OIG with documents related to your involvement with the  
17 Crossfire Hurricane investigation?

18          A.     I did.

19          Q.     Did OIG ever complain that it needed more  
20 information from you?

21          A.     They did not.

22          Q.     Did OIG ever complain that they didn't get the  
23 documents they needed related to your involvement?

24          A.     They did not.

25          Q.     Did you have the opportunity to review the OIG

1 report, at least the portions involved here?

2 A. Yes. I reviewed the OIG report.

3 Q. Did you provide any comments on the draft?

4 A. I believe I did provide a comment.

5 Q. Can you please characterize those comments.

6 A. Excuse me. I apologize. I don't think I  
7 provided any on the Crossfire Hurricane. I provided one on  
8 the Midyear Exam.

9 Q. I see.

10 A. So my apologies.

11 Q. In that case, would you have submitted comments  
12 to OIG if you believed their draft contained errors?

13 A. Certainly.

14 Q. In other words, you didn't identify any errors  
15 when you reviewed the draft report?

16 A. I did not. Not that I recall.

17 Q. Our committee held a six-hour hearing with  
18 Inspector General Horowitz following the release of this  
19 report. A number of allegations were made against the FBI  
20 during that hearing and subsequently repeated at other  
21 hearings and meetings of the committee.

22 We believe the allegations were investigated  
23 and answered by the Inspector General, but I'm going to ask  
24 you a series of questions about them because we continue to  
25 hear these allegations from people who do not have

1 firsthand knowledge or evidence about what happened during  
2 Crossfire Hurricane.

3 The Inspector General found that there was no  
4 documentary or testimonial evidence of bias impacting the  
5 FBI's work in the Crossfire Hurricane investigation.  
6 Nonetheless, there have been allegations that there was  
7 tons of evidence of bias.

8 Did political bias impact any of your actions  
9 in connection with Crossfire Hurricane?

10 A. It did not.

11 Q. Do you have any evidence that political bias  
12 otherwise impacted the FBI's work in Crossfire Hurricane?

13 A. I have no information that wasn't available to  
14 Mr. Horowitz.

15 Q. It has been alleged that the FBI engaged in a  
16 massive criminal conspiracy over time to defraud the FISA  
17 court. Do you have any evidence that the FBI engaged in a  
18 massive criminal conspiracy over time to defraud the FISA  
19 court?

20 A. I do not.

21 Q. It has been alleged that the FBI purposefully  
22 used the power of the federal government to wage a  
23 political war against a presidential candidate they  
24 despised. Do you have any evidence that the FBI agents  
25 purposefully used that power to wage a political war?

1           A.     I do not have anything other than what Mr.  
2 Horowitz has.

3           Q.     Do you have any evidence that the FBI was  
4 attempting a coup against President Trump?

5           A.     I do not.

6           Q.     Do you have any evidence that the Crossfire  
7 Hurricane investigation was a hoax or a witch hunt intended  
8 to hurt Trump politically?

9           A.     I do not.

10          Q.     Was your goal to hurt Trump politically?

11          A.     It was not.

12          Q.     If not, what was your goal?

13          A.     To determine if there was a maligned foreign  
14 power -- Russians -- had attempted to interfere in the  
15 election.

16          Q.     Do you have any evidence that Crossfire  
17 Hurricane was part of a deep state effort to take down  
18 President Trump?

19          A.     I do not have anything like that.

20          Q.     There have also been allegations that the  
21 purpose of the Crossfire Hurricane investigation was to  
22 change or nullify the results of the 2016 election. Do you  
23 have any evidence that the goal of Crossfire Hurricane was  
24 to change or nullify the 2016 election?

25          A.     I do not.

1 Q. There have also been allegations that Crossfire  
2 Hurricane was composed of people who hated Trump and who  
3 had an agenda to destroy him before he was elected and  
4 after he was elected. You were appointed by Trump to be  
5 Acting Attorney General after Trump fired Sally Yates for  
6 refusing to defend the travel ban.

7 Upon being sworn in as Acting Attorney General,  
8 did an agenda to destroy the President prevent you from  
9 immediately instructing Department of Justice lawyers to  
10 defend the Executive Orders of the President?

11 A. It did not.

12 Q. You subsequently held two other roles at the  
13 Department of Justice under President Trump appointees  
14 Sessions and Rubenstein. Did an agenda to destroy the  
15 President prevent you from executing and defending the  
16 lawful orders of the President and individuals?

17 A. Did not.

18 Q. FBI Director Christopher Wray, also appointed  
19 by President Trump, named you as FBI General Counsel in  
20 January 2018. Did an agenda to destroy the President  
21 impact any decisions you have made in this role?

22 A. It did not.

23 Q. Do you have any evidence that an agenda to  
24 destroy the President has impacted any decisions by  
25 Director Wray specifically?

1 A. I am not aware of any such information.

2 Q. Did you personally have an agenda to destroy  
3 President Trump at any point, either as a candidate or  
4 since election?

5 A. I did not.

6 Q. Do you have any evidence that the goal of  
7 Crossfire Hurricane was to destroy President Trump either  
8 as a candidate or since election?

9 A. I do not.

10 Q. Thank you.

11 BY MS. ZDEB:

12 Q. Mr. Boente, I wanted to start with just a  
13 couple of very general questions about counterintelligence  
14 and criminal investigations, drawing on your experience as  
15 a seasoned prosecutor and FBI general counsel.

16 For starters, does the FBI require agents to  
17 have an expectation that they will find criminal wrongdoing  
18 in order to open a counterintelligence investigation?

19 A. They do not.

20 Q. And what impact would imposing a requirement  
21 along those lines have on the Bureau's ability to  
22 investigate counterintelligence and national security  
23 threats?

24 A. It would be harmful to national security,  
25 because many times the goal is just to find out what the

1 foreign power knows or what they're trying to find out, and  
2 various other things that really are completely unrelated  
3 to criminal investigations.

4 Q. Does the FBI require agents or does the  
5 Department require prosecutors to have certainty that they  
6 will be able to prove criminal wrongdoing in order to open  
7 a criminal investigation?

8 A. They do not.

9 Q. And can you speak to what the impact of  
10 imposing a requirement along those lines would be on the  
11 Bureau's and the Department's efforts to investigate and  
12 prosecute crime?

13 A. Well, there, I think, are good reasons why you  
14 don't want the predication for a criminal investigation to  
15 be too high, because sometimes it just begins with an  
16 allegation, and you have to acquire information to see if  
17 indeed there was a criminal violation.

18 So there would be many, many cases that warrant  
19 investigation and prosecution that you would miss if you  
20 set that bar too high.

21 Q. So, in other words, the mere fact that  
22 prosecutors may not ultimately charge a crime or obtain a  
23 conviction does not, standing alone, mean that the  
24 investigation was unwarranted in the first place?

25 A. It does not.

1 Q. I would like to ask you a couple of questions  
2 about that period of time when you were acting -- or the  
3 two periods of time during which you were acting AG, first  
4 in general and then second for purposes of Crossfire  
5 Hurricane.

6 As you know, because you've reviewed the IG  
7 report, Mr. Horowitz found that the FBI opened Crossfire  
8 Hurricane following Russia's hack of the DNC and after  
9 receiving information from a friendly foreign government  
10 suggesting that the Trump campaign may have had advanced  
11 notice of Russia's plans to publish stolen emails. He then  
12 went on to conclude that this information gave the FBI an  
13 adequate predicate to open the investigation.

14 On page 73 of the OIG report, it notes that,  
15 and as we've discussed a bit today, when you became Acting  
16 Deputy Attorney General you were briefed on the predication  
17 for the investigation; and I believe you told OIG that you,  
18 quote, "did not question the predication for the  
19 investigation."

20 Is that correct?

21 A. That's correct. I don't have a specific  
22 recollection of it, but that is correct what I told the IG.

23 Q. And I believe you also told OIG -- and this is  
24 also on pages 73 to 74 of the report -- that you did not  
25 have any concerns about the decision to open Crossfire

1 Hurricane; is that correct?

2 A. That's correct.

3 Q. In fact, I believe you told OIG that the  
4 regular briefings that you were discussing with Mr. Somers  
5 and Mr. Baker, that you sought those briefings because you  
6 believed it was extraordinarily important to the Department  
7 and its reputation that allegations of Russian interference  
8 in the 2016 election be investigated; is that correct?

9 A. That is correct.

10 Q. So it's fair to say that you thought there was  
11 a sufficient basis, or a "there there" so to speak to open  
12 the investigation?

13 A. Yes, ma'am.

14 Q. And when you were discussing with Mr. Somers a  
15 little bit before the break the question of your concern  
16 that there had not been sufficient criminal process used at  
17 that point in the investigation, is it fair to say that had  
18 you believed that there was not a sufficient basis for the  
19 Crossfire Hurricane investigation in the first place or had  
20 otherwise believed that there was no there there, so to  
21 speak, that you would not have made the pitch for  
22 additional criminal process?

23 A. That is correct.

24 Q. You spoke a little bit before the break about  
25 the transition between yourself and Mr. Rosenstein when he

1 was sworn in as acting Deputy Attorney General in April of  
2 2017. At some point before that transition when you handed  
3 off the case to Mr. Rosenstein -- and you had spoken a bit  
4 before about discussions with Director Comey. At some  
5 point during this time, when you were still acting AG for  
6 purposes of Crossfire Hurricane, Director Comey made you  
7 aware that the President had asked him to, quote, "lift the  
8 cloud of the Russia investigation," and that this direct  
9 contact from the President had made him uncomfortable; is  
10 that correct?

11 A. That's correct.

12 Q. I believe you told then-White House Counsel  
13 McGahn that direct outreach from the President to Director  
14 Comey was a problem?

15 A. Yes. To make sure the record is correct, there  
16 were two calls from Mr. Comey. I think they were  
17 approximately a week apart. I didn't call Mr. McGahn until  
18 the second call.

19 Q. Can you describe what it was that Mr. Comey  
20 conveyed to you in each of those calls? In other words,  
21 was it the first call or the second call during which he  
22 conveyed the discussion in which the President had asked  
23 him to lift the cloud of the investigation?

24 A. I'm not certain I can distinguish the content  
25 between the two as I sit here. But they were both calls

1 Mr. Comey had received from the President: It was a  
2 pending investigation, and it made him feel a little  
3 uncomfortable.

4 Mr. Comey made a point of saying he did not  
5 view it as obstructive, but he just thought that discussing  
6 pending investigations with the White House was something  
7 that shouldn't be done.

8 Q. As a general matter, would you agree that  
9 direct outreach from any President to a sitting FBI  
10 director about a specific criminal investigation is unwise,  
11 because it could at the very least create the appearance of  
12 political interference?

13 A. I would agree with that.

14 Q. So is it also fair to say that the appearance  
15 of political interference is heightened when the specific  
16 pending investigations may relate to the President or his  
17 associates?

18 A. I think so.

19 Q. I believe that you told the Special Counsel's  
20 Office when you spoke to them that when Mr. McGahn asked  
21 whether the Russia investigation could be speeded up or  
22 ended as soon as possible, you responded to the effect of  
23 attempting to shorten the investigation could erode  
24 confidence in the investigation's conclusions.

25 Could you speak to why maintaining public

1 confidence in the Russia investigation was important?

2 A. Well, yes. You've had an allegation that the  
3 election had been affected by a foreign power to the  
4 benefit of the current administration. So I believed it  
5 was important to have a full robust and fair investigation  
6 so that we would understand what happened. And if  
7 consequences were warranted, people would have -- the  
8 public would have confidence that the case had been  
9 thoroughly investigated. And if there are not charges,  
10 it's important for the public to have confidence that there  
11 was a full investigation.

12 It really cuts both ways. In fact, it may be  
13 even more important in the latter case where you don't have  
14 charges that there was a thorough investigation.

15 Q. Of course, at a certain point, as we've  
16 discussed, Mr. Rosenstein was sworn in as Deputy Attorney  
17 General. At some point shortly after he became Deputy  
18 Attorney General, Director Comey testified before our  
19 committee; and in a similar way as you described him doing  
20 before the Senate Intelligence Committee, he confirmed to  
21 our committee the existence of an investigation, but he  
22 declined to answer further questions about the specifics of  
23 that investigation or to rule out that specific people were  
24 being investigated. Of course, about a week after that,  
25 Director Comey was fired by the President.

1           When Mr. Rosenstein appointed Robert Mueller as  
2 Special Counsel the following week, he said, quote, "Based  
3 on the unique circumstances, the public interest requires  
4 me to place this investigation under the authority of a  
5 person who exercises a degree of independence from the  
6 normal chain of command." He also said that a special  
7 counsel is necessary in order for the American people to  
8 have full confidence in the outcome of the Russia  
9 investigation.

10           Did Mr. Rosenstein consult you, either during  
11 one of the sidebar discussions that you mentioned earlier  
12 or during one of the two meetings that you have described  
13 with him during the handoff, about the decision or the  
14 potential to appoint a special counsel?

15           A.     Not that I recall.

16           Q.     Do you have an understanding of what he meant  
17 when he was indicating that unique circumstances required  
18 him to place the investigation in the hands of someone who  
19 exercised a degree of independence from the usual chain of  
20 command?

21           A.     No more than what his words would imply to any  
22 of us, that to avoid the appearance of a conflict of  
23 interest or that somehow there was anything but a  
24 completely independent investigation; but just taking it  
25 from Mr. Rosenstein's words. I never had a conversation

1 with him about those matters, that I recall.

2 BY MS. SAWYER:

3 Q. I just had a couple questions.

4 When my colleague asked what the goal was of  
5 the investigation, I think you said that the goal was to  
6 determine whether a maligned foreign power interfered in  
7 the 2016 election.

8 Does that sound right?

9 A. That was my understanding.

10 Q. And, specifically, that maligned foreign power  
11 was Russia; is that correct?

12 A. Yes, ma'am.

13 Q. From your perspective, is there any question as  
14 to whether or not Russia interfered in the 2016 election?

15 A. There is not.

16 Q. So it's clear that they did indeed?

17 A. Yes, ma'am.

18 Q. And Special Counsel Mueller specifically found  
19 that they had indeed engaged in a sweeping and systematic  
20 campaign to interfere in our elections in 2016?

21 A. That's my understanding of what he wrote.

22 Q. And that is one part of it. But also, another  
23 part was to determine, was it not, whether or not, either  
24 wittingly or unwittingly, any U.S. persons were involved in  
25 that Russian interference effort?

1 A. Correct.

2 Q. So witting assistance would have been  
3 assisting, knowing you are assisting Russia in its  
4 interference efforts, correct?

5 A. Yes.

6 Q. And you can wittingly assist and not commit a  
7 crime. Is that also accurate?

8 A. I think so.

9 Q. And if you're wittingly assisting a foreign  
10 government in its efforts to interfere in our election,  
11 does that pose a counterintelligence or a national security  
12 risk?

13 A. Yes, it would.

14 Q. In what ways?

15 A. Well, depending upon what the person has access  
16 to or how they're helping, it is something we would want to  
17 know from a counterintelligence perspective.

18 Q. So even if he weren't investigating necessarily  
19 to determine crimes, as my colleague says, there could be a  
20 strong counterintelligence and national security reason to  
21 investigate?

22 A. That is frequently the case in  
23 counterintelligence investigations.

24 Q. And if one person who potentially is assisting  
25 is a campaign manager and has access to internal campaign

1 strategy and internal campaign data, might you possibly  
2 want to know their connections with Russian individuals?

3 A. Taking your hypothetical as correct, yes.

4 Q. So taking it from the hypothetical to the real,  
5 Paul Manafort had connections with an associate by the name  
6 of Konstantin Kilimnik.

7 Are you familiar with Mr. Kilimnik?

8 A. I am now. I don't believe I was at that time.

9 Q. And what is your familiarity with him based on?

10 A. Information that I have learned since I've been  
11 General Counsel in providing information to various  
12 congressional oversights.

13 Q. So you briefed Congress?

14 A. This has been my only briefing of Congress.

15 Q. I'm sorry, today?

16 A. Today is my only briefing.

17 Q. So just keeping it at a level that doesn't get  
18 into or run the risk of getting into classified  
19 information, Special Counsel Mueller, on page 133 of his  
20 report, says that Mr. Kilimnik has ties to Russian  
21 intelligence.

22 Do you have any reason to doubt that assertion  
23 or conclusion?

24 A. I think my answer might kind of get into  
25 classified information.

1 Q. Fair enough. What is your understanding of  
2 Mr. Manafort, when he was campaign manager, of his  
3 interactions with Mr. Kilimnik?

4 A. Again, I think that might get into something  
5 that would be difficult for me to answer in this forum.

6 Q. Does that information go beyond what is in the  
7 Mueller report?

8 A. I would have to look at the Mueller report and  
9 kind of separately consider that fact.

10 Q. Do you know when and who discovered that  
11 Mr. Manafort was meeting and having meetings with Mr.  
12 Kilimnik in August of 2016 while he was campaign manager?  
13 Do you know when that fact was discovered?

14 A. I don't recall, as I sit here, if I know. I  
15 don't recall.

16 Q. Do you think it was before you became the  
17 Acting Deputy on February 9, 2017?

18 A. Again, I just don't know as I sit here.

19 Q. Do you know whether you were briefed on that in  
20 the five or six -- I think you indicated that you thought  
21 it was about five or six times that you were briefed --

22 A. Yeah.

23 Q. -- when you were the Acting Deputy Attorney  
24 General. Do you recall being briefed on that at that time?

25 A. I'm a little uncertain. I seem to recall that

1 gentleman's name was mentioned, but I'm uncertain.

2 Q. Certainly if you were briefed at that time  
3 about interactions between the campaign manager and an  
4 individual that Special Counsel Mueller determined had ties  
5 to Russian interference, do you believe there would have  
6 been a counterintelligence reason to continue that  
7 investigation?

8 A. Yes.

9 Q. I just want to make sure I understand. I know,  
10 when you were talking to my colleagues -- I want to make  
11 sure I understand the universe of your involvement. My  
12 understanding of what you had told us was that in the  
13 period of time that you were the Acting Deputy Attorney  
14 General -- which I think was from around February 9th to  
15 April 26th -- you were briefed maybe five or six times by  
16 the Justice Department lawyers?

17 A. That's a rough estimate. And there could have  
18 been an FBI agent at some of those briefings, but I don't  
19 recall specifically other than I think the one instance  
20 that I spoke of.

21 Q. Then after Deputy Attorney General Rosenstein  
22 got appointed, at that point in time, it sounded like you  
23 had a meeting, whether it was a handoff, but then you were  
24 no longer directly involved in briefings on Crossfire  
25 Hurricane or the appointment of the special counsel or then

1 the special counsel's investigation?

2 A. Well, that is certainly my recollection. The  
3 time was fairly brief to the appointment of special  
4 counsel. I think it would run from April 26th to May 16th,  
5 '17.

6 So I do not recall any discussions of an  
7 appointment of special counsel. I recall there was a  
8 meeting with Deputy Attorney General Rosenstein to hand off  
9 the case, and I had, I believe, two meetings with  
10 Mr. Mueller again to hand off matters.

11 Q. So you met with Special Counsel Mueller shortly  
12 after his appointment a couple of times, as best you  
13 recall?

14 A. As best I recall, there were two meetings. One  
15 was in the Justice Command Center, and the other was in  
16 some space in the Patrick Henry Building.

17 Q. What was your understanding of the scope of  
18 what Special Counsel Mueller was being asked to look into  
19 when you were handing off information?

20 A. I really didn't understand the scope, because I  
21 don't think that was ever made public and it wasn't  
22 necessarily disclosed to me.

23 The second meeting was a briefing of the  
24 separate Manafort investigation, I recall that pretty  
25 specifically, as to whether he wanted to bring it into his

1 umbrella, but I did not understand what his umbrella was.  
2 The first meeting in the JCC was just more generally where  
3 the investigation was. I would note that I was not the  
4 primary briefer in either case.

5 Q. Who was the primary briefer?

6 A. It's easier for me on the second one in Patrick  
7 Henry, which was a combination of MLARS and -- I don't  
8 remember the person's name -- and I believe an NSD/CES  
9 attorney.

10 Q. And that was the separate investigation?

11 A. That was the separate. Yeah, that was the one  
12 concerning the separate prior investigation of  
13 Mr. Manafort, whether the special counsel would assume  
14 responsibility for that investigation.

15 The first one was a more general briefing. It  
16 was given by people at NSD. I think, but I'm not  
17 absolutely certain, that it was [REDACTED].

18 Q. And understanding that you don't remember a lot  
19 of the specifics, do you remember at any point anyone  
20 indicating that there really was no need to investigate;  
21 that there really was nothing for Special Counsel Mueller  
22 to look at?

23 A. I do not remember that.

24 Q. Do you remember whether there's any sense that  
25 there actually was matters that he should be looking at,

1 and even just a general sense of what that included?

2 A. Not the general sense more than I've already  
3 stated, in that the broad picture of Russian interference  
4 in the election. But as I said when I spoke with your  
5 colleagues when they were asking questions, I felt it was  
6 important to establish what had happened; not completely  
7 with the focus of someone needed to be prosecuted, but kind  
8 of a larger thought there that a prosecutor should never  
9 open up a case saying someone has to be prosecuted, but  
10 keep your mind open to see where your evidence falls once  
11 you open up a case. But I thought this was the kind of  
12 case that definitely needed an investigation.

13 Q. Over the last few years, we have often heard  
14 the term "collusion." What is your understanding as a  
15 legal matter what that term means?

16 A. It's -- legally, it's not -- it doesn't have a  
17 legal meaning. We investigate conspiracies to commit  
18 crimes. So I always thought it was perhaps someone else's  
19 shorthand version of a conspiracy investigation, but that's  
20 me kind of doing my thought of what someone else thought.  
21 Collusion is just not a term of art in the law, to my  
22 understanding.

23 Q. And I think we a little while ago were asking  
24 you about witting assistance, and whether or not witting  
25 assistance can exist without there being -- and I think

1 you've now indicated -- criminal conspiracy to commit a  
2 crime, and you've indicated that that was true. Is that  
3 correct?

4 A. Yes.

5 Q. And that could be if, for example, conduct that  
6 was being engaged in was determined -- for example, and  
7 I'll make it concrete. With regard to WikiLeaks, there was  
8 a determination that what WikiLeaks did could not be  
9 charged under our current laws. Whether or not we agree  
10 with it as something that morally or ethically should have  
11 been done, the determination was there was not a crime.

12 So if there was witting assistance with  
13 WikiLeaks, that wouldn't be criminal necessarily, would it,  
14 but would you say that could be ethical or moral?

15 A. Well, again, I don't have all the facts of the  
16 WikiLeaks breach. But normally, if there's an unauthorized  
17 intrusion, we can prosecute that. We do with some  
18 frequency under 1031. So I'm not sure I understand the  
19 premise that the WikiLeaks could not be --

20 Q. That's a fair point. So certainly worth  
21 investigating to whether or not it rose to the level of  
22 being criminal activity.

23 A. Well -- and in the case of computer intrusions  
24 by foreign powers -- which, unfortunately, attempted  
25 computer intrusions by foreign powers are not necessarily

1 rare. We investigate those frequently for both criminal  
2 purposes and counterintelligence purposes.

3 Q. So, again, investigating whether or not what  
4 WikiLeaks had done rose to the level of criminal activity  
5 was a worthwhile endeavor?

6 A. Yes.

7 Q. And then determining who, in terms of U.S.  
8 persons, might have been working with WikiLeaks also might  
9 have been a worthwhile endeavor?

10 A. It would have been within the scope of an  
11 investigation.

12 Q. You noted something there. You said attempted  
13 intrusions by foreign powers are not that unusual. If a  
14 U.S. candidate for office openly and publicly invites a  
15 foreign entity to hack his or her opponent, is that  
16 something that the law can or should reach?

17 A. I don't know if it currently "can" reach it.  
18 And I would leave the "should" to you folks.

19 Q. Should it make a difference in that assessment  
20 whether or not the foreign government actually takes a U.S.  
21 candidate up on their offer? In your view, does that  
22 legally make a difference?

23 For example, the fact that Russia did for the  
24 first time try to intrude on Hillary Clinton's email server  
25 five hours after then-Candidate Trump invited them to do

1 so, should that make a difference?

2 A. I don't know. And I wasn't aware of your  
3 timeline, either. I'm not disputing what you said. I  
4 wasn't aware.

5 Q. I understand. I did have one more question,  
6 maybe two or three.

7 With regard to -- you had indicated that once  
8 you became FBI General Counsel, you did have conversations  
9 with Bill Priestap.

10 A. Yes, I did.

11 Q. And were those conversations about Crossfire  
12 Hurricane? What was the content of them? When did they  
13 occur? Why did they occur?

14 A. I was the FBI representative when Mr. Priestap  
15 went to provide testimony to the House, so I certainly  
16 discussed it with him then. We sat next to each other at  
17 many, many meetings. It's a little bit like, at least my  
18 family dining table, maybe not yours. We all sit in the  
19 same spot every day. And so he and I would talk about many  
20 things, and I'm sure sometimes investigations, sometimes  
21 about family, different things.

22 Q. During that time period, was that the only time  
23 in your career you had worked with Mr. Priestap, the time  
24 period that you became FBI General Counsel?

25 A. No. I had some contact with him when I was

1 over at the Department as the Acting Deputy. It was not  
2 extensive, but -- there were less than a handful, I would  
3 say. I certainly knew who he was.

4 Q. How did you know who he was?

5 A. Just because he was the A.D. for the  
6 counterintelligence division, and we -- I had people who  
7 worked with that division all the time.

8 Q. In the time you worked with him -- it looks  
9 like you worked directly with him for a little under a  
10 year?

11 A. I would think -- I went to the Bureau in  
12 January of 2018, and it seems as though Mr. Priestap left  
13 in, December; is that correct? That's my vague  
14 recollection. If you said it was a different date, I could  
15 agree to that. Except for the start date I know is  
16 correct.

17 Q. Fair enough. A little under a year.

18 Did you get a sense of him, just reputationally  
19 as someone who is heading that division? Can you give us a  
20 sense of him and his work and your assessment of him?

21 A. I thought he was very solid, and I thought he  
22 had a lot of integrity.

23 Q. Then one last question. There is a reference  
24 in the Mueller report, it's on page 13, and it just  
25 references that for more than the past year -- so I think

1 just the last year, at least the last year of the Special  
2 Counsel's investigation, the FBI and also embedded  
3 personnel at the office who did not work on the Special  
4 Counsel's investigation, but whose purpose was to review  
5 the results of the investigation and to send in writing  
6 summaries of foreign intelligence and counterintelligence  
7 information to FBI headquarters and FBI field offices.

8           Were you aware of that information? Did you  
9 receive that information?

10           A. I did not receive that information. I became  
11 aware of it at some point. But it was -- it may have even  
12 been after the Special Counsel's office shut down or when  
13 they were getting ready to. So it wasn't realtime, and it  
14 was a little bit in regards to how to deal with the  
15 records -- how to deal with the records that had been  
16 created. You know, whose were they? Were they Special  
17 Counsel's? Were they the Bureau's?

18           So when I learned about it, it was kind of  
19 surprising to me. I don't know why. It's not that it  
20 didn't make sense. It's just that I had not known about it  
21 until that time. And then, oh, yeah.

22           Q. Did you actually review those records?

23           A. I did not. At least not to my knowledge. I  
24 might have gotten something on a one-off, but I had no  
25 regular reviewing of those documents.

1 Q. Do you know where those records now reside?

2 A. If -- I don't. If they came over as part of  
3 the Bureau's materials, they would be at the Information  
4 Management Division out in Winchester.

5 Ms. Zdeb: It's about 12:02. We can go off the  
6 record.

7 (Recess.)

8 Mr. Somers: It's now 10 after 12:00. We'll go  
9 back on the record.

10 EXAMINATION

11 BY MR. SOMERS:

12 Q. I would like to turn to the actual FISA  
13 application that you signed, the renewal application Number  
14 2. According to the IG report, it's on page 216 on April  
15 2nd, 2017, Tashina Gauhar, you, and Jim Crowell. The draft  
16 page FISA application.

17 At this time, you were already briefed on  
18 Crossfire Hurricane generally?

19 A. Yes, sir.

20 Q. Had you read a previous copy of the Carter Page  
21 FISA application? Was this the first time you were seeing  
22 the application?

23 A. I believe it's the first time I had seen the  
24 application.

25 Q. Did you read the application?

1 A. I did.

2 Q. And you also had one of these summary cover  
3 memos as well?

4 A. Yes, sir.

5 Q. Did you have a more extensive memo than the  
6 traditional or usual one-pager?

7 A. I don't recall it. But Ms. Gauhar's told the  
8 IG that she prepared a memorandum on it.

9 Q. Separate from the standard --

10 A. Yes, separate.

11 Q. -- one-pager? Your report says you wanted to  
12 "ensure that you had good visibility into the application."

13 What did you mean by good visibility?

14 A. Just understood where we were, what the  
15 application said, what our claims were in the application.

16 Q. Was the application consistent with what you  
17 knew already about Crossfire Hurricane from your previous  
18 briefings? Was there anything surprising in there?

19 A. Not that I recall. I think it probably brought  
20 together maybe some things that had been told, and maybe  
21 there were some things in there that had not been brought  
22 to my attention. Not that I can tell you today what they  
23 were, that they were astounding, just it was a summary of  
24 some of the things I knew.

25 Q. The IG report indicates that, as I said, you

1 got the draft -- I guess a draft of the read copy I assume  
2 is what you got on April 2nd?

3 A. Yes, sir.

4 Q. It says, the IG report indicates that you  
5 signed off on the read copy of the FISA being sent to the  
6 FISA court the next day on April 3rd.

7 Does that sound correct?

8 A. I don't have an independent recollection of  
9 that fact.

10 Q. And I believe FISA was actually filed on the  
11 7th or 8th of April. Do you recall, did you stop working  
12 on that particular FISA once you gave that signoff of the  
13 read copy to go to the court?

14 A. I have no recollection one way or the other.  
15 I'm pausing and I'm hesitating because I can't recall  
16 whether we actually considered the Office of the Attorney  
17 General to be a SCIF and left top secret matters out of it.

18 The reason I'm pausing is if I had access to  
19 it, I might have picked it up and read it. But if I had  
20 been taken and placed in a SCIF, in which I wouldn't have  
21 it, then -- if that all makes sense.

22 Q. Did you have any input into the application  
23 after you read it?

24 A. I don't recall that I did.

25 Q. So you don't recall asking for any changes?

1 A. I don't recall that.

2 Q. Do you recall asking any questions about  
3 anything in particular in the application?

4 A. Not anything in particular. But I seem to  
5 recall that I had questions. I just can't recall what they  
6 were.

7 Q. I think one -- I don't think you characterized  
8 it as a question, but according to the IG report, it's on  
9 page 216 of the IG report, Ms. Gauhar recalled that you  
10 were very engaged on the issue of Steele's potential bias  
11 and that you and she had multiple discussions on that  
12 specific issue.

13 Would you put that in the category of questions  
14 you had?

15 A. I would.

16 Q. What was your concern about this potential  
17 bias?

18 A. Well, I think as Assistant U.S. Attorney and  
19 someone who's presented many, many affidavits to courts, if  
20 you have a witness that's got bias, things that would  
21 question that witness' credibility, a record, kind of a  
22 financial loss to the target or something, all those  
23 things, you want to be explained so that the court  
24 understands, well, this witness says X, but they may have  
25 an axe to grind.

1 Q. Is it more than you want the court to  
2 understand? Are there duties to provide?

3 A. Well, absolutely. It's both. You want to, as  
4 somebody presents things to the courts. But you have an  
5 ethical obligation under 3.3. Every attorney has a duty of  
6 candor to the court.

7 Q. Did you have a specific concern about Steele,  
8 or you just had a concern because he was a witness and  
9 you're always concerned about bias?

10 A. I did not have a specific concern about  
11 Mr. Steele, who -- I think it's important to understand,  
12 I'm not even sure I understood Mr. Steele's actual given  
13 name at that time.

14 Q. What did you understand about who he was?

15 A. Well, I understood he was a former employee of  
16 a foreign intelligence service. I understood that a lot of  
17 what is in my FISA in footnote 10 -- footnote 8 in the  
18 original FISA -- that he had been hired to do, what I'll  
19 use as shorthand, as opposition research against Mr. Trump.

20 So there were -- I mean, that's the broad  
21 narrative of what I understood, that he had a potential  
22 bias and that needed to be noticed to the court.

23 Q. Did you ask for anything to be done? Did you  
24 ask for further briefings on the bias?

25 A. I don't think so. I discussed it with

1 Ms. Gauhar and perhaps Stuart Evans. I don't recall  
2 specifically, but he would have been another person I would  
3 have asked about.

4 But a witness can have a bias, and you can use  
5 that witness, and we do frequently in cases. But the court  
6 needs to be fully apprised of the bias, and particularly in  
7 an ex parte situation where they're not going to be probed  
8 by cross-examination.

9 Q. Did either Ms. Gauhar or Mr. Evans tell you  
10 something to assuage your concerns on bias? Point you to  
11 something in the application?

12 A. They may have. They may have talked about  
13 prior applications and prior communications with the court.  
14 But I don't recall specifically.

15 Q. Did Mr. Evans, if you remember -- you don't  
16 recall you spoke to him about bias. Do you recall any  
17 discussion at any point in time that he previously himself  
18 had concerns about Steele and potential bias?

19 A. I came to understand that. When, I don't know.

20 Q. So you don't recall if it was before --

21 A. Or after.

22 BY MR. BAKER:

23 Q. Do you recall either Evans or Ms. Gauhar  
24 indicating, on the topic of potential bias by Steele, that  
25 anyone at the FBI had weighed in on that and sort of

1 addressed or pushed back on any of the Department's  
2 concerns about bias?

3 A. I don't know if I knew it at that time,  
4 Mr. Baker. I later learned, and it may be through the IG  
5 report itself or at least during the preparation of the IG  
6 report, that Mr. McCabe had called over to Ms. Yates to  
7 either complain or -- I don't know how to characterize it,  
8 but his concern.

9 And, again, I think this is all -- I don't have  
10 an independent recollection. I believe it's from the  
11 report. Ms. Yates spoke to Mr. Evans and however they  
12 resolved it. But I think that I do have this recollection  
13 that Mr. Evans had that concern, and that was the events  
14 that occurred.

15 Q. Do you have a recollection of what Mr. McCabe's  
16 concern was from the FBI's perspective about --

17 A. I don't think that I knew then or know now, if  
18 it's not in the report.

19 Q. Okay.

20 A. And I don't think I learned it until -- at  
21 least I don't have a recollection of understanding that at  
22 the time I signed the FISA.

23 Mr. Baker: Thank you.

24 BY MR. SOMERS:

25 Q. But you do recall Stu Evans raising with you

1 that he had had some concerns at one point in time about  
2 bias?

3 A. I do. But I just don't know when that was.

4 Q. It seems like that Stu Evans raised concerns,  
5 you seemed to have concerns. After your IG report, it  
6 seems like those concerns were valid. You don't recall,  
7 though, why you, for lack of a better term, dropped your  
8 concerns about bias. And I say drop, because you did sign  
9 off on the read copy.

10 A. Yeah. No, that I was somehow satisfied. But  
11 the IG report opens up a whole new window of information  
12 that should have been provided that wasn't. So when you  
13 say the IG report, it's completely different after you read  
14 it.

15 Q. I was just saying that you and Stu Evans seemed  
16 to be on the right track and, for whatever reason,  
17 independently both of you backed off at different times of  
18 your concerns.

19 A. Yeah.

20 Q. And I'm just wondering if you know why you  
21 backed off.

22 A. I will say this. I have no recollection of  
23 receiving any reach-outs from the FBI about an event time.

24 Q. You said earlier, and I think it's also in the  
25 IG report, you said you understood that Steele's reporting

1 was opposition research. What does that mean to you? What  
2 did that mean to you, that was opposition research?

3 A. Well, it means he had been hired by a political  
4 opponent.

5 Q. So you understood that he was hired by a  
6 political opponent?

7 A. I did.

8 Q. Did you understand that it was the DNC?

9 A. I think I did.

10 Q. Do you recall where you got that understanding  
11 from?

12 A. I do.

13 Q. Could you tell us from where you got that  
14 understanding?

15 A. From some FBI materials. But they're  
16 classified. I know them to be classified.

17 Q. But you were aware, then, that the FBI was  
18 aware that Steele was paid for by the DNC?

19 A. I believe so.

20 Q. You had mentioned --

21 A. I think I understood at some point -- and the  
22 timing is a little tough -- that Mr. Simpson, Glenn Simpson  
23 had done the paying to Mr. Steele.

24 Q. But Mr. Simpson was paid for -- or Fusion GPS  
25 was paid for by the DNC?

1           A.       Whether I had that connection at that time or  
2 not, I don't know. But I did have information from the  
3 Bureau that it was opposition research. I believe it was  
4 the DNC.

5           Q.       And you're recalling a specific document that  
6 we can't talk about in this setting?

7           A.       Yes, sir.

8           Q.       And you're calling that you saw that document  
9 prior to April 3rd --

10          A.       I believe so.

11          Q.       -- 2016. Do you recall why you --

12          A.       All the timings are a little tough.

13          Q.       Do you recall why you were given that document?

14          A.       I do.

15          Q.       Were you given other -- I don't know what the  
16 document is, but could we characterize it as evidence?

17          A.       I would not characterize it as evidence.

18          Q.       Was it a document generated by the FBI?

19          A.       Yes.

20          Q.       Were you given other documents before April 3rd  
21 that were generated by the FBI?

22          A.       I don't know. I would like to help you out  
23 more. I just don't want to get in trouble.

24          Q.       I understand.

25          A.       Because I don't really -- I don't know if

1 there's some way that counsel can communicate with you  
2 afterwards in a more classified forum. It's an easy  
3 answer.

4 Q. Was this a document that would have been part  
5 of this file?

6 A. No.

7 Q. You had mentioned a minute ago -- I think it's  
8 footnote 10 in the FISA you reviewed; it's footnote 8 I  
9 believe in the original FISA. This is the footnote that I  
10 think explains at least to some extent the Steele footnote  
11 on page 143 of the IG report. It's also on the original  
12 page application.

13 "Steele, who now owns a foreign  
14 business/financial intelligence firm, was approached by an  
15 identified U.S. person, communicated to Steele that a  
16 U.S.-based law firm had hired the identified U.S. person to  
17 conduct research regarding Candidate One's ties to Russia.  
18 He identified the U.S. person and Steele had a longstanding  
19 business relationship. He identified the U.S. person hired  
20 Steele to conduct this research. He identified the U.S.  
21 person never advised Steele as to the motivation behind the  
22 research of Candidate One's ties to Russia. The FBI  
23 speculates that the identified U.S. person was likely  
24 looking for information that could be used to discredit  
25 Candidate One's campaign."

1 I believe in the IG report you found that  
2 footnote to be very clear?

3 A. To me, it is. And perhaps I can help you as to  
4 why I say that. I have been a prosecutor for more than  
5 half of my life. Kind of sad, but I have been. We always  
6 anonymize victims, witnesses, coconspirators. The footnote  
7 would be much clearer and easier to understand if we used  
8 everyone's name, but by Department policy we never do that.

9 I have thought for many years, in drafting  
10 indictments or search warrants, if I could say Witness  
11 Smith or Victim Jones because it's much easier to follow.  
12 So when we anonymize the names, as we've done in that  
13 footnote, it is not as clear as it could be as if you used  
14 the words DNC. But we don't ever do that.

15 Q. Doesn't that take something away from the  
16 court's understanding? To me, that goes beyond  
17 anonymizing.

18 A. I just think that's the Department policy.  
19 It's the best you can do. I would note that Judge  
20 Boasberg, in his March 4th public opinion, commented on the  
21 footnote and said, I believe, something along the lines of  
22 it was opposition research. So it appears the court  
23 understood what it was and they certainly had, if they  
24 didn't, the opportunity to ask a question. All of which  
25 may not be satisfying to your question, but I -- just

1 that's the system we work in. We put those things in  
2 anonymously for everyone, to protect victims, witnesses,  
3 coconspirators if they aren't indicted.

4 Q. What about the sentence: "The FBI speculates  
5 that the identified U.S. person was likely looking for  
6 information that could be used to discredit Candidate One's  
7 campaign"?

8 A. As I sit here today, I think that should be  
9 stronger.

10 Q. That should be stronger, you say?

11 A. Yes, sir.

12 Q. Because you at least, from whatever document  
13 you saw, indicated the DNC --

14 A. I think it could be assessed, it could be  
15 concluded. That word is not as good as it should be.

16 Q. The IG report also indicates, on page 218, that  
17 you knew at the time that you signed this second renewal of  
18 the FISA application that two different judges had  
19 previously found probable cause.

20 Did that factor into your decision to whether  
21 to sign or not, whether it raised questions?

22 A. No. I think it factored into my decision. I  
23 hope that I made an independent conclusion and didn't rely  
24 solely on that. But it's not the same as a judge had  
25 previously rejected the affidavit.

1 Q. I think I kind of asked this question in our  
2 first round early on. Had it been the initial application  
3 versus a renewal, then would you have looked at it harder?

4 A. I don't think so in this case, because I looked  
5 at this one pretty good.

6 Q. But you do have a duty, apart from the fact  
7 that two judges signed off on a FISA?

8 A. Absolutely you have a duty, because things can  
9 change. You know, there's -- and in fact, as Inspector  
10 General Horowitz said, things had changed and should have  
11 been included in the application and were not. So whatever  
12 the facts were in January, the second renewal, should have  
13 been updated -- excuse me. The first renewal should have  
14 been updated for the second renewal. So of course you're  
15 required to do an independent evaluation, because the judge  
16 is going to look at a different application.

17 Q. Do you recall -- I'm sorry, I can't remember  
18 the term you used. But you said on the summary page that  
19 you were speaking generally the first time --

20 A. Yes, sir.

21 Q. -- in the first hour.

22 In the summary page, you talked about what was  
23 done with the information that has been collected through a  
24 FISA. You said that's summarized in terms of number of  
25 hits or something like that?

1           A.     Number of collections and number of collections  
2 reviewed --

3           Q.     Do you recall --

4           A.     -- I believe is what it says.

5           Q.     Do you recall, not the exact numbers, but  
6 whether those were in line on the Carter Page FISA  
7 application you signed?

8           A.     I don't recall. But it would surprise me if  
9 they had not been reviewed, because I don't think this was  
10 an application that was generating a lot.

11          Q.     Did you question whether it was worthwhile to  
12 renew the application again at that point in time?

13          A.     I don't believe I did, because the -- my  
14 recollection is -- and I do not have the application in  
15 front of me, or even the declassified portion that you  
16 have. But my recollection is that the application that I  
17 signed had some collection in it.

18          Q.     What was your role in the final page FISA  
19 application renewal? On page 227 of the IG report, Rod  
20 Rosenstein also said he had a conversation with Boente  
21 about the application.

22                   Do you recall what that would have been?

23          A.     I recall a discussion with Deputy Attorney  
24 General Rosenstein about the application in general or writ  
25 large. As I said to the Inspector General, I have no

1 recollection of reading the third renewal, although I'm not  
2 denying the fact that the IG still concluded that I had a  
3 copy.

4 Q. I have one quote here that I can read. My  
5 general question is what views you expressed to Deputy  
6 Attorney General Rosenstein about the third and final  
7 renewal.

8 The quote from the IG report on 227 is:  
9 "Boente expressed the view that a Deputy Attorney General  
10 should not refuse to sign a FISA application to establish  
11 probable cause and where there's a legitimate basis for  
12 conducting an investigation just because it could end up  
13 becoming politically embarrassing at some later point."

14 I'd ask you about that in particular, and also  
15 what discussions you were having with Rosenstein.

16 A. Yeah. Well, I don't recall the specific  
17 discussions, but I believe that then and I believe it today  
18 that just because something is politically sensitive,  
19 you -- if probable cause is established as an appropriate  
20 basis for the investigation, I think you have really a duty  
21 or an obligation to sign it. I mean, that's a little bit  
22 of the oath we take as prosecutors.

23 Q. Do you recall why you would have expressed  
24 that -- had to express that view?

25 A. Only if he had asked me a question. I

1 think -- and there are two things that get a little bit  
2 lost in the overall narrative. One is that Mr. Page had  
3 publicly disassociated with the campaign in September of  
4 2016. So by the time I signed the application, we're seven  
5 months out. You can add a couple of more by the time  
6 Deputy Attorney General Rosenstein signs the application.

7 So I don't think that anybody at the Bureau or  
8 the Department is looking for collection on the Trump  
9 campaign. It just strikes me as unlikely given the timing.

10 Q. Did Rosenstein ask you your opinion as to  
11 whether you should sign the renewal?

12 A. I don't recall.

13 Q. Do you recall any discussions, kind of what you  
14 were just saying, at this point, are we collecting any  
15 information on the Trump campaign? Do you recall any  
16 discussion whether it was worthwhile to seek this final  
17 FISA that far out from the events of 2016?

18 A. I don't. I don't recall. I learned, I  
19 think -- well, I know if I learned it at all, it was  
20 subsequently -- that like my application, the third renewal  
21 also had collection in it. But I'm a little less clear  
22 about that.

23 Q. Did you see the summary sheet?

24 A. I don't know that I saw anything then. Since  
25 then, I've been involved in the declassification process of

1 all these. So that's where my basis for the fourth would  
2 come from.

3 Q. But your recollection is, whenever you saw it,  
4 there was some level of collection in the file?

5 A. But I learned that since then over at the  
6 Bureau. Yes, sir.

7 Q. The IG report, page 74, says, March, April  
8 briefings -- I think it also goes in with your signing of  
9 the FISA. During these March and April briefings you  
10 received on Crossfire Hurricane, presumably on the FISA you  
11 signed, Boente's handwritten notes of the meetings focused  
12 on, among other things, the FBI's efforts to corroborate  
13 information contained in the Steele dossier.

14 What was your understanding of the FBI's  
15 efforts to corroborate the Steele reporting?

16 A. In part, that they were working on identifying  
17 the subsources, and that they had identified the subsource  
18 one.

19 Q. So you were aware that they had a subsource?

20 A. Not by name.

21 Q. Yeah. But, I mean, you --

22 A. Yeah. That they were attempting to identify  
23 the subsources, and that they had identified subsource one.

24 Q. The person the IG report calls the primary  
25 subsource?

1           A.     I couldn't recall whether we used that term.  
2     But yes.

3           Q.     One and the same though?

4           A.     Yes.  We were going back and forth on that  
5     during the declassification process.

6           Q.     And then at the time -- not subsequently.  But  
7     were you aware when you signed, for instance, the FISA on  
8     April 3rd that the Steele dossier -- were you aware that  
9     Steele had a primary subsource?  That he wasn't the  
10    originator of his information that was included in his --

11          A.     I believe -- well, I understood he had a  
12    primary subsource.  I'm not sure that I completely  
13    understood he didn't have other independent sources of  
14    information and perhaps things he might have been  
15    collecting generally.  But I certainly understood he had a  
16    primary subsource.

17          Q.     Do you recall whether that came up in your kind  
18    of initial briefings on Crossfire Hurricane, or was this  
19    specific to the --

20          A.     I think it came up -- I believe it came up in  
21    briefings, not something specific to the FISA application.

22          Q.     Do you recall who told you?

23          A.     I do not.

24          Q.     But it would have been a DOJ official?

25          A.     I believe so.

1 Q. Most likely?

2 A. Most likely. It could have been -- like I  
3 said, I'm not saying that there was never FBI personnel  
4 there. But my recollection is it was primarily DOJ  
5 briefings.

6 Q. To be clear, so you're aware Steele had a  
7 primary subsource. You also became aware that the FBI  
8 located and interviewed the primary subsource?

9 A. Well, I certainly became aware of that later.  
10 I believe I knew it at that time.

11 Q. By April 3rd, when you signed?

12 A. I think I did. Again, three years ago, the  
13 timing of when I learned that.

14 Q. How about before Attorney General  
15 Rosenstein signed. Not that you would have talked to him,  
16 but were you aware by the time the final FISA application  
17 was filed?

18 A. See, again, I don't -- well, to that question,  
19 yes, because my briefings ended. I wasn't getting  
20 briefings by June 24th, or whatever it was, when he signed.

21 Q. So you were aware. As acting Deputy Attorney  
22 General, you were aware that the FBI had located and  
23 interviewed Steele's primary subsource, although you didn't  
24 call him the primary subsource?

25 A. Well, I don't know what I called him. During

1 the declassification was why I was confused by the primary  
2 subsource time. They had located him -- again, it's all  
3 very confusing to me because now I know when. As I sit  
4 here today, I know precisely when they interviewed him  
5 because I learned that in 2019.

6 Q. But before you left --

7 A. See, that's what I don't --

8 Q. -- In your position as acting Deputy Attorney  
9 General, you're aware that they had located him?

10 A. I was aware they located him. I may have been  
11 aware that they interviewed him. I don't know. I don't  
12 know that I knew the date.

13 Q. So then this question is probably obvious from  
14 your last answer. Were you aware of the results of the  
15 interview?

16 A. I absolutely was not aware of the results of  
17 the interview.

18 Q. Either positive or negative, you didn't hear?

19 A. No, sir.

20 Q. Let's back up. Described in the IG report,  
21 there were two memos written about the primary subsource  
22 interview. One is a very extensive memo that outlines I  
23 think the information. It's all shocking that the FBI knew  
24 this derogatory information. There's also a shorter memo  
25 that did not seem to include most of that information.

1           You weren't aware of the sort of positive  
2 information on the primary subsorce?

3           A.     I do not think that I was.

4           Q.     Were you aware -- there's a mention in the FISA  
5 application that they had located the primary subsorce,  
6 and that they found him to be truthful and cooperative.  
7 Were you told that the primary subsorce was truthful and  
8 cooperative?

9           A.     If it's in a FISA application that I signed, I  
10 relied upon that.

11          Q.     I can't recall if it's in an application you  
12 signed or not.

13          A.     Yeah.

14          Q.     I don't recall if you were told separately.

15          A.     I don't recall there being any separate  
16 communication on positive or negative findings on the  
17 primary subsorce.

18          Q.     I take it from something you said earlier, but  
19 if you had known about the information that's in the IG  
20 report about the primary subsorce, would you have signed  
21 the Carter Page FISA application that you signed?

22          A.     Not without it being in there.

23                 Mr. Baker: Just a quick follow-up to that.

24          BY MR. BAKER:

25          Q.     Based on what you know now or based on what you

1 knew then, in the totality of your knowledge and expertise  
2 for what you've done for all these years, do you think,  
3 what was in the Steele information, was that absolutely  
4 critical to get a FISA over the finish line? Or was there  
5 enough investigative materials unrelated to anything Steele  
6 ever said to establish probable cause for the FISAs?

7 A. I don't know, Mr. Baker. I would have to go  
8 back through the application and strike the references to  
9 the Steele materials. And then -- well, you strike  
10 everything in the Steele materials, then the second part  
11 becomes unnecessary to put all the contradictions or  
12 derogatory information about Mr. Steele's bias in there.  
13 But I've never done that to see.

14 There's other information about Mr. Page, about  
15 he had many, many contacts with the Russians. He had  
16 contacts with [REDACTED] in the United States and  
17 different things. So it's difficult for me to answer as I  
18 sit here to answer.

19 Q. Do you recall any of the legal minds at the  
20 Department, either then or now, having a discussion about  
21 that, just an intellectual discussion that Steele's  
22 information really wasn't needed or it was needed?

23 A. I recall some information that there was a  
24 staleness issue, and that the Steele information got them  
25 over that requirement.

1 Q. Just for the record, when you say "a staleness  
2 issue," the issues of the information they had was old and  
3 not --

4 A. Was older.

5 Q. -- and not recent. And Steele sort of  
6 revitalized that?

7 A. In their opinion.

8 BY MR. SOMERS:

9 Q. What was your understanding of how much the FBI  
10 had done to corroborate any of the material in the  
11 applications that you signed? Are you saying it's all  
12 corroborated? Are you saying there's a proper Woods file  
13 for it?

14 A. I certainly assumed there was a proper Woods  
15 file. And when you say corroborated, it was properly  
16 supported by the Woods file information.

17 Q. But you had no discussions about corroboration?

18 A. I don't believe I did.

19 Q. So you would assume that everything was done,  
20 and you were handed an application that fully complied with  
21 FBI procedures?

22 A. Oh, it's a vigorous, robust review on both  
23 sides of the street. Or it's certainly supposed to be, and  
24 that's our obligation to do that. So, yes, I presumed that  
25 had been done in this case.

1 Q. Although the Inspector General has a more  
2 recent report out that would question whether it happens in  
3 other cases, a Woods file is actually generated.

4 A. Well, the Bureau has reviewed about half of  
5 those cases and has filed its response. I don't know if  
6 any of that is public. But we thought that a lot of those  
7 applications had been properly supported.

8 Q. On July 12 -- I'm sorry.

9 A. There was something -- I should have written it  
10 down -- that I wanted to tell you about the application.  
11 Maybe it will come to me. I'm sorry, I should have written  
12 a note.

13 BY MR. BAKER:

14 Q. On the topic of Woods, real quick separate and  
15 apart from Crossfire Hurricane. It's my understanding, and  
16 I think we've heard testimony from other witnesses, the  
17 Woods file gets reviewed separate and apart from any  
18 problem with a case, correct?

19 My understanding is there's some randomly  
20 pulled files. There's OGC attorneys, there's FBI  
21 inspectors, maybe some DOJ people, and many go around the  
22 country to audit some of the FISAs, and part of those  
23 audits include a Woods file check. Is that your  
24 understanding?

25 A. Yes. There are two separate types of audits.

1 One are done by OI with OGC attorneys who go out to the  
2 field. Then there's kind of a second stream, I'll say, of  
3 accuracy reviews done by the CDCs.

4 Q. CDCs, for the record, is what?

5 A. Chief Division Counsel, who is the FBI counsel  
6 in the office.

7 Q. In the field office?

8 A. Field office. Yes, sir.

9 Q. So they answer in some way, shape, or form to  
10 the legal folks back at FBI headquarters?

11 A. Not really. They answer to the FAC, but OGC is  
12 the program manager. If that makes sense to you as a  
13 former FBI employee.

14 Q. Okay. So as a FISA application is moving  
15 through the field office, it at some point gets standard  
16 transmitted to FBI headquarters so that it continues?

17 A. Well, there's -- most of it goes to the  
18 Department of Justice.

19 Q. Okay.

20 A. But it is reviewed at the FBI, also. But I  
21 thought your question was -- and I apologize if I  
22 misunderstood it -- concerned Mr. Somers' inquiry into  
23 audits.

24 So there are two separate streams of audits.

25 One is done by OI, and then there's a second stream done by

1 CDCs. And they're somewhat random -- I would not describe  
2 them as random in the way that a CPA firm would do an  
3 audit -- and so the Bureau is looking into that process  
4 right now to see how it can be improved.

5 Q. So when you say it's not random, like a --

6 A. Well, it's not random in that -- a bad choice  
7 of words probably, Mr. Baker.

8 You're an agent in the field. A year later or  
9 something they'll call up and they'll say we're going to  
10 look at this docket number. Get it ready. So you have a  
11 chance to actually go to the case file and make sure that  
12 the Woods file is in proper shape. As opposed to a CPA  
13 audit, they would come out and knock on your door Monday  
14 morning and say let's see the file. It probably should be  
15 more the latter than the former if you want to make it the  
16 most robust process.

17 Q. But it's still random in the sense that the  
18 cases are chosen.

19 A. Yes, sir.

20 Q. The field office doesn't get to pick what they  
21 put on the table for you look at.

22 A. Correct, sir.

23 Q. Okay. And in your opinion, in your experience  
24 on either side of the street, had there historically been  
25 issues with Woods files?

1 A. Not that I'm aware of.

2 Q. Okay.

3 A. I mean, the management review that we referred  
4 to which was done by Mr. Horowitz's team subsequent to the  
5 Crossfire Hurricane file, I think through that process,  
6 although we feel that the support for at least half of  
7 those is there, we can improve the process. So just  
8 because you were able to find everything, there needs to be  
9 a better way to maintain the Woods file.

10 Q. When you say the support for half of those were  
11 there, are you saying that there is support for things he  
12 didn't find support for?

13 A. We haven't done the other half yet. We haven't  
14 been able to get to those.

15 Q. Okay.

16 A. We've only been through 14 of the 29.

17 Q. Okay.

18 A. But the Woods file, we could keep it in  
19 Sentinel. There's a lot of different things that we could  
20 do. There's just many systemic improvements that can be  
21 made.

22 Q. Do you know -- and, again, totally I would be  
23 interested in hearing your opinion.

24 A. Well, you know in a week it's not going to  
25 matter.

1 Q. Fair. Does the Bureau move case agents around  
2 too much? If you've got all these files and you've had  
3 some case agent that's with the case for a while, they know  
4 what's in the files, they know what needs to be added.  
5 Somebody coming in and inheriting a very complicated FISA  
6 that they have to catch up on all that, that seems to me  
7 that would be an opportunity for stuff to fall through the  
8 cracks. I would just be interested in your opinion.

9 A. Probably. It's the same way with cases. When  
10 someone's promoted, they lose cases. I don't want to get  
11 way out of my lane, because I am. As the U.S. Attorney, I  
12 always liked to have my SACs for a little bit longer.

13 One of my field offices was a WFO. Tends to be  
14 a little bit of turnover there more than other offices.  
15 So, yeah, I like the stability. But the Bureau has its own  
16 requirements. You probably know more about that than I do.

17 BY MR. SOMERS:

18 Q. On July 12 of 2018, I know you were at FBI by  
19 this point in time. But on July 12, 2018, NSD sent a  
20 letter to the FISA court advising the court that certain  
21 factual admissions in the Page FISA application that came  
22 to NSD's attention after the last renewal application was  
23 filed.

24 Did you have any role in drafting this letter?

25 A. We're usually able to review those and make

1 comments. We, OGC.

2 Q. FBI OGC?

3 A. Yeah. So we don't draft it and we don't even  
4 get the final say-so. But we're able to say, well, what  
5 about this? And, of course, NSD/OI can say, no, we're not  
6 going to do that, but have some input.

7 Q. Were you consulted on this particular letter?  
8 Consulted is my word. Whatever word you would use.

9 A. I think -- although mine's at a pretty high  
10 level. It's only when they don't iron out differences at a  
11 level below me. Which brings me to the thing I wanted to  
12 say that I couldn't --

13 Q. Go ahead.

14 A. -- before. When either you or Mr. Baker asked  
15 me about the absence of the Steele materials, which, as I  
16 said, we always referred to as [REDACTED], the Bureau did.  
17 That's why I never knew his name until I got across the  
18 street. They withdrew support from renewals 2 and 3. It  
19 may be the letter you're referring to, I don't know, but  
20 they actually filed a letter with this. So they had done  
21 their own analysis, and I am not familiar with the --

22 Q. It wasn't this particular letter. This one  
23 said, I believe, something along the lines of nonmaterial,  
24 this July 12, 2018 letter.

25 A. I do recall that.

1 Q. And you saw it before it was sent?

2 A. I don't have it in front of me, but I'm pretty  
3 sure that I did.

4 Q. So this letter goes out. Obviously, there's  
5 some realization -- or as the letter is going out or after  
6 it goes out, there has to be some realization there's  
7 problems with the Carter Page FISA application and the  
8 letter never goes out.

9 Was there any discussion about maybe taking a  
10 look at the Carter Page process?

11 A. Not that I recall. I think at that time we're  
12 squarely in the middle of the IG's review. If I'm --

13 Q. The IG has announced his review of March 18 of  
14 2018.

15 A. Yeah.

16 Q. We talked earlier about duties at the  
17 Department as a lawyer.

18 A. Absolutely.

19 Q. And the FBI held a course. I don't know if  
20 there was any discussion about --

21 A. Not that I recall.

22 Q. Not that you recall?

23 A. But certainly there is that concern, and that's  
24 why -- we file a lot of -- or the Department files a lot of  
25 Rule 13 letters. But usually they're not -- just to make

1 sure that the court's accurate, but they're not major. You  
2 know, there might be a date wrong, there might be a time  
3 wrong, something like that. But I think they take their  
4 obligation very seriously, those who actually file those  
5 documents with the court.

6 BY MR. BAKER:

7 Q. So even the most minor discrepancy would result  
8 in a letter going to the --

9 A. I won't say even the most minor, but some of  
10 them seem pretty ticky-tacky.

11 Q. The ultimate goal is candor to the court.

12 A. Absolutely. All attorneys have that duty.

13 BY MR. SOMERS:

14 Q. Let's include candor. If you had exculpatory  
15 evidence that cuts against the probable cause that's  
16 presented in the FISA, do you have a duty to present your  
17 pro-probable cause information as well as your con against  
18 probable cause information?

19 A. No. Your duty would be the derogatory or  
20 the -- that questions your probable cause. That is -- so  
21 to answer your question, if you've got 100 facts, but you  
22 can establish probable cause with 60, there's no obligation  
23 to pile on with the other 40. But every contradictory  
24 fact, every fact that questions the credibility of a  
25 witness should be included in your application.

1 Q. Is that well-known to -- well, we'll start with  
2 Department attorneys?

3 A. It is known, I think, to every Assistant U.S.  
4 Attorney that files search warrant affidavits and arrest  
5 warrant affidavits with the court.

6 Q. What about to attorneys in those 65 or so  
7 attorneys that we mentioned earlier in the General  
8 Counsel's Office of the FBI that are involved in FISA  
9 applications. Are they aware of the duty, to the best of  
10 your knowledge?

11 A. To the best of my knowledge, they are, and  
12 should be. It's really difficult to pass the bar  
13 without -- there's a separate ethics test.

14 Q. I think we touched on this a little bit.

15 A. Even back when I took the bar.

16 BY MR. BAKER:

17 Q. Do you know, does the Bureau educate their  
18 non-attorney agents on that sort of duty?

19 A. Yes, sir. And we've recently done additional  
20 and enhanced training on that fact in response to  
21 Mr. Horowitz.

22 BY MR. SOMERS:

23 Q. I don't know if you would know this. Do you  
24 know if attorneys inquired of the Agency? You've got a  
25 FISA application or you have a regular warrant application.

1 Do they inquire, hey, is there any exculpatory information?  
2 Is there anything that undercuts this? Is that a normal  
3 part of the agent's case?

4 A. Yeah. It's on a checklist.

5 Q. It's on an actual checklist? For FISA or for  
6 warrants?

7 A. For FISA, now.

8 Q. How about then?

9 A. I can't recall what the prior checklist was.

10 Q. But let's back up then. So you're saying that  
11 within the Office of General Counsel, there's some sort of  
12 checklist for attorneys before --

13 A. For agents.

14 [REDACTED]: Mr. Somers, I think we're again  
15 getting a bit afield of what the scope of this interview is  
16 supposed to be for talking about Mr. Boente's role at the  
17 Department. Now we're talking about specific actions the  
18 FBI either has taken or is implementing as a result of the  
19 IG report.

20 Mr. Somers: He's General Counsel of the FBI.  
21 You've had FBI agents not tell FBI attorneys about  
22 exculpatory information, which is what I'm asking about.  
23 And I'm asking whether they had a duty to tell the FBI  
24 attorneys about exculpatory information. I don't think  
25 that's in the least bit far afield.

1           ██████████: I'm not objecting to your questions  
2 about his opinions about duty for candor. I'm objecting to  
3 the line of questioning about actions the FBI may have  
4 taken or current processes or policies that he may have  
5 been involved in as the General Counsel of the FBI.

6           Mr. Somers: He told me about a current  
7 process. And I was asking if he knew whether that current  
8 process existed in 2016. He can say I don't know or I know  
9 it did. That's all I'm looking for. I'm not looking to go  
10 much further than that. I just want to know.

11           BY MR. SOMERS:

12           Q.     So you described some sort of form or  
13 procedures.

14           A.     I believe there were forms. What they  
15 contained, I'm not absolutely certain.

16           Q.     This is a form for your attorneys, or this is a  
17 form for FBI agents?

18           A.     For agents.

19           Q.     And it's what they have to tell attorneys?

20           A.     OI, Office of Investigation.

21           Q.     OI and Justice?

22           A.     Yes, sir.

23           Q.     And on that form, there's stuff that would go  
24 to the duty of candor that we spoke about when we were  
25 speaking about exculpatory information?

1 A. I believe so.

2 Q. But you don't recall whether the form was  
3 different in 2016?

4 A. That's exactly right.

5 Q. We talked about a little bit these 17  
6 significant inaccuracies and omissions, the Inspector  
7 General's words, in the Carter Page FISA application based  
8 on information that was known to the FBI either before the  
9 first application was filed or there were ten more before  
10 the renewals were filed. One does relate to the  
11 information about the DNC. It has some knowledge about  
12 that. But leaving that aside, were you aware of any of  
13 these other inaccuracies or omissions?

14 A. I would not have signed an application with an  
15 inaccuracy or omission that I knew about.

16 Q. You mentioned earlier that an FBI attorney -- I  
17 think this is what you said, so correct me if I'm repeating  
18 your testimony wrong -- an FBI attorney can and OGC can  
19 look at the Woods file if they want to. Do you know how  
20 often that occurs?

21 A. I do not.

22 Q. Do you think they should look at a Woods file?

23 A. Probably not. But I want to kind of handicap  
24 that answer a little bit.

25 A lot of times on a FISA application you're

1 under a lot of time pressure for various different reasons.  
2 Some are quite obvious in counterterrorism cases. I don't  
3 think in this forum we can get into what makes them time  
4 sensitive in counterintelligence, but they do get quite  
5 time sensitive. So you can really slow down the process a  
6 lot.

7           Which is different from saying that if any  
8 attorney has a question about something within the  
9 application, they should -- and I think do -- have the  
10 ability to ask for the support for that, which is  
11 essentially what the Woods file is. I've got a question  
12 about paragraph 38. What is your support for that? Can I  
13 see the 302? I think that ability was there in 2016, and  
14 it's there today.

15           Q.     Did you say the Woods file resides in the  
16 Sentinel system?

17           A.     No. Some do. Maybe there should be a  
18 requirement they should.

19           Q.     So not all of them?

20           A.     It's not a requirement.

21           Q.     Do OGC attorneys have access to the Sentinel  
22 system?

23           A.     They do.

24           Q.     So if it happened to be an application for  
25 which a Woods file existed in the Sentinel system, they

1 could go look at it?

2 A. Yes, sir.

3 Q. Do you know whether this was filed?

4 A. I do not.

5 Q. You don't know whether it was in Sentinel?

6 A. I do not, sir. I don't think most of them are  
7 in Sentinel, but I don't know. As I sit here, I can't give  
8 you all a percentage of how many are. I think it's a  
9 little bit up to individual agents as to how well they keep  
10 records and whether they want to do that.

11 BY MR. BAKER:

12 Q. Is there any pressure put on an AUSA by the  
13 U.S. Attorney or by a case agent, by the SAC to keep a  
14 sophisticated technique like a FISA or a Title III up and  
15 running, and pressure to make sure it doesn't go down? Not  
16 necessarily because of the valuable information that's  
17 being obtained to address national security or criminal  
18 concerns, but because it makes the field office more  
19 productive by having sophisticated techniques being  
20 utilized.

21 The FBI, I'm well aware, is very metric  
22 centric. They measure risks, they measure search warrants,  
23 they measure everything as a matter of agent productivity,  
24 as a matter of field office productivity. And if you have  
25 the sophisticated techniques up and running, you're viewed

1 as a productive agent, you're viewed as a productive field  
2 officer.

3 Is there any pressure put on the field office  
4 agent, the AUSA, to make sure that those techniques stay up  
5 and running?

6 A. Well, I can speak to you at least from my  
7 experiences, you know, six years or so as a U.S. Attorney.  
8 I never did that. I was never aware of it. We don't  
9 necessarily care about metrics for the FBI.

10 Now, it's easy for me to imagine a case where  
11 the FBI and the U.S. Attorney are conducting a specific  
12 investigation and them saying, why can't we get a FISA on  
13 this? But I would think it would be more focused on  
14 getting information on the specific individual. But  
15 generally -- I don't know, Mr. Baker, that in my many years  
16 as the first assistant or as the U.S. Attorney that I ever  
17 had a discussion about someone doing a FISA. I'm not  
18 saying it didn't happen at some level below me, but never  
19 with me.

20 BY MR. SOMERS:

21 Q. We're almost out of time in our hour, but I do  
22 have some questions about Bruce Orr I would just like to  
23 briefly run through.

24 Mr. Somers: And just for the record, if I ask  
25 anything about General Flynn, I'm going to get an objection

1 from the Department. Is that correct?

2 Mr. Weinsheimer: That's correct.

3 BY MR. SOMERS:

4 Q. While you were the Acting Deputy Attorney  
5 General, what was Bruce Orr's position/role within your  
6 office? He was within your office, correct?

7 A. He was. He ran the OCDETF program as an  
8 associate Deputy Attorney General.

9 Q. And that program didn't have anything to do  
10 with Crossfire Hurricane; is that correct?

11 A. It did not.

12 Q. Anything to do with counterintelligence?

13 A. It did not.

14 Q. So he had no responsibility over Crossfire  
15 Hurricane or involvement based on his position?

16 A. He did not.

17 Q. When did you become aware that he had contact  
18 with Mr. Steele?

19 A. Well, that's -- I think it might have been  
20 mentioned in a meeting that they knew one another. But  
21 that he really had contact with him involving the case, I'm  
22 not sure I learned until I got to the Bureau.

23 Q. And that mention didn't cause you to just walk  
24 down the hall and say, Bruce, what do you know about  
25 Christopher Steele?

1 A. No.

2 Q. Did he ever indicate to you that he had any  
3 involvement with the Paul Manafort investigation?

4 A. No. I mean, if you're referring to the portion  
5 in the Inspector General's report -- I think there's at  
6 least something in there about that -- I'm completely  
7 surprised by that.

8 Q. Did he have any responsibilities or supervisory  
9 role over the money laundering asset recovery session at  
10 DOJ?

11 A. No, sir.

12 Q. In the Crossfire Hurricane investigation,  
13 there's a quote from Deputy Attorney General Yates on 299  
14 of the Inspector General's report. "Yates told us the  
15 Russia interference investigation in general was well-known  
16 in ODeputy Attorney General by the time Orr met with McCabe  
17 in October of 2016." That's on page 299 of the IG report.

18 Would you agree with that, that the Crossfire  
19 Hurricane investigation was sort of well-known in the  
20 office? What I'm getting at is, Bruce Orr should have come  
21 to you and said, hey, I'm talking to this guy?

22 A. Well, two different answers. I don't know  
23 whether it was well-known or not well-known In ODeputy  
24 Attorney General. But Department of Justice attorneys and  
25 assistant U.S. attorneys do not deal with witnesses, so he

1 should have told someone. What he should have done is hand  
2 off Mr. Steele to an agent. That's what you should do.

3 As an assistant U.S. attorney, I've had any  
4 number of people call me up and say, hey, I've got a guy  
5 who wants to report a crime. Fine. Let me call over to  
6 the Bureau. I'll have somebody contact you. That's what  
7 you do.

8 Q. And he should have done that well earlier?

9 A. Yes. That's what you do immediately;  
10 otherwise, you become a witness, and that's the last thing  
11 in this world you want to do.

12 Q. Just for the record, he should have at least  
13 told you or Deputy Attorney General Yates. Were you a  
14 direct supervisor?

15 A. Yes, I was.

16 Q. Should he have told you that he had contact  
17 with Christopher Steele?

18 A. I think so. Again, I don't think he should  
19 have had contact with Christopher Steele in this case.

20 BY MR. BAKER:

21 Q. As a practical matter, was he ever noticed  
22 missing from his desk? He seems to be out and about doing  
23 a lot of different things, not whatever he was supposed to  
24 be doing.

25 A. No. I never got -- don't recall getting a

1 report of that, and I certainly wasn't checking on him at  
2 his desk.

3 BY MR. SOMERS:

4 Q. But certainly, whether he spent time during  
5 business hours being interviewed by the FBI about  
6 Christopher Steele, that was not part of his official  
7 duties?

8 A. It was not, and it appears that way.

9 Mr. Somers: I think that's all we have, unless  
10 we have any follow-up.

11 Mr. Baker: In case we don't get any rebuttal,  
12 you had said earlier -- I think you were joking; I know you  
13 were joking -- that it's kind of sad you had spent half  
14 your life as a prosecutor.

15 I just want to say for the record I think  
16 you've pursued a very noble calling. I dealt with you on  
17 the House side and you were very helpful. You were very  
18 cooperative coming in today. You've been very helpful. I  
19 know for a fact you occupied many different positions in  
20 your long career at the Department. You did many difficult  
21 jobs very well. I thank you for coming in today, and I  
22 wish you well.

23 The Witness: Thank you. And it was a joke.  
24 It was just more a reference to my age than anything else.  
25 I've been very fortunate and had a career that I loved.

1 There's no better job than being an AUSA.

2 Mr. Baker: Thank you for coming in today.

3 (Recess.)

4 Ms. Sawyer: Back on the record.

5 EXAMINATION

6 BY MS. SAWYER:

7 Q. I just want to clarify on a range of things  
8 related to Mr. Flynn, General Flynn.

9 Ms. Sawyer: Can the witness speak to at all  
10 the calls with Ambassador Kislyak?

11 Mr. Weinsheimer: No.

12 Ms. Sawyer: Can the witness speak today about  
13 any discussions the witness may have been involved in while  
14 acting Deputy Attorney General about Mr. Flynn?

15 Mr. Weinsheimer: No.

16 Ms. Sawyer: Can he speak to the issue of  
17 whether any National Security Advisor having conversations  
18 with the Russian ambassador and potentially misleading the  
19 White House officials about that? Can he speak to that  
20 generally?

21 Mr. Weinsheimer: No. Because the only  
22 relevance would be as to Flynn.

23 Ms. Sawyer: Can he speak to assertions that  
24 have been made that there was entrapment with regards to  
25 Lieutenant General Flynn?

1 Mr. Weinsheimer: No.

2 Ms. Sawyer: So those are issues that I think  
3 are of importance to the committee, at least to the members  
4 on the Democratic side of the committee.

5 Mr. Boente, I understand that you're not able  
6 to answer those because of the ongoing matter, but it may  
7 be that we ask you to return at some point.

8 The Witness: I would be happy to accommodate  
9 the committee.

10 Ms. Sawyer: Thank you.

11 BY MS. SAWYER:

12 Q. I'm curious. We talked a lot about Carter Page  
13 and the Carter Page FISA application. I understand and I  
14 appreciate your answers.

15 Have you ever gone to look at the section of  
16 the Mueller report that dealt with Carter Page?

17 A. I have not.

18 Q. I'm going to give you a copy of this report and  
19 just ask you a few questions.

20 I'm just going to direct your attention to page  
21 101 of Volume I. Part of what was in the FISA application  
22 that you signed was an assertion that, based on public  
23 source information, Mr. Page had been in Moscow in July of  
24 2016 while he was working on the campaign. So I'm just  
25 going to direct your attention to page 101.

1 A. Yes, ma'am.

2 Q. So that second paragraph that says: "On July  
3 8, 2016, while he was in Moscow, Page emailed several  
4 campaign officials and stated he would send 'a readout soon  
5 regarding some incredible insights and outreach I perceived  
6 from a few Russian legislators and senior members of the  
7 presidential administration here.'"

8 Do you see that?

9 A. Yes, ma'am.

10 Q. Then there's a little more information, and  
11 then there's a large swath of this that is redacted as  
12 grand jury information.

13 Have you ever seen that grand jury information?

14 A. I don't believe I have.

15 Q. Then after the redacted portion, it says the  
16 following: "The office was unable to obtain additional  
17 evidence or testimony about who Page may have met or  
18 communicated with in Moscow. Thus, Page's activities in  
19 Russia as described in his emails with the campaign were  
20 not fully explained."

21 Do you have any additional information that  
22 might shed light on what Mr. Page was doing in Moscow and  
23 who he was meeting with?

24 A. I'm not certain. I might, but I think it would  
25 probably be classified if I did.

1 Q. Beyond relying on the reporting from  
2 Christopher Steele in the Page FISA applications, are you  
3 aware of any other place where any of the Crossfire  
4 Hurricane investigation relied on information from  
5 Christopher Steele?

6 A. Excuse me? I'm not sure I understand your  
7 question.

8 Q. Other than what we've discussed -- and we have  
9 discussed the Carter Page FISA applications, one of which  
10 renewals you had signed or had reviewed.

11 Other than relying on reporting from  
12 Christopher Steele in those Page FISA applications, are you  
13 aware of any other instance where the Crossfire Hurricane  
14 investigation relied on reporting from Christopher Steele?

15 A. I don't know the answer to that question.

16 Q. So sitting here today, we can't cite you to  
17 another example where they relied on reporting from  
18 Christopher Steele?

19 A. I cannot. But I cannot also say that I know  
20 they didn't.

21 Q. Can you tell me whether or not you know where  
22 in Special Counsel Mueller's 448-page report there's any  
23 citation to the Steele dossier?

24 A. No. I'm not that familiar with Mr. Mueller's  
25 report.

1 Q. Can you identify which, if any, of 199 criminal  
2 counts filed by Special Counsel Mueller rely on any  
3 reporting from Christopher Steele?

4 A. I do not. I seem to recall a conversation with  
5 Mr. Mueller's staff where they said they weren't relying on  
6 Mr. Steele.

7 Q. Just on this broader question, you've described  
8 what Mr. Steele had and did his opposition research. And I  
9 think the natural understanding, if it was opposition  
10 research on Donald Trump, would be that it was someone who  
11 was against his candidacy.

12 Is that a fair assumption?

13 A. I think that's the case. And as I mentioned, I  
14 think Judge Boasberg indicated his understanding as well.

15 Q. With regard to this notion of whether it was  
16 proper in any way, shape, or form for the FBI to even look  
17 at the information that Christopher Steele brought to them,  
18 it was also given to them by a number of other people,  
19 including Senator John McCain.

20 Was it inherently improper for the FBI to even  
21 look at or consider Mr. Steele's information?

22 A. I don't think so.

23 Q. Why not?

24 A. I think that if Mr. Steele acquired information  
25 that might have counterintelligence value protecting the

1 United States, I think you're obligated to at least look at  
2 it.

3 Q. You were also asked some questions about Bruce  
4 Orr and his involvement and interactions with Christopher  
5 Steele. And what I heard you saying is that you were not  
6 aware at the time.

7 Have you ever spoken to Mr. Orr about those  
8 interactions directly?

9 A. I have not.

10 Q. So he hasn't explained to you the degree to  
11 which he was interacting and who initiated the  
12 interactions?

13 A. He has not. I have some understanding of the  
14 degree because I had the 302s.

15 Q. So you've reviewed his interviews, Mr. Orr's  
16 interviews?

17 A. To say I reviewed them might be a little  
18 bit -- I probably read them very quickly.

19 Q. Fair enough. Was Mr. Orr involved in any way  
20 in the decision to seek a FISA warrant on Carter Page?

21 A. Not to my knowledge. And I have no reason to  
22 believe that he was.

23 Ms. Sawyer: If you would give us a second.

24 Ms. Zdeb: That concludes our questioning, Mr.  
25 Boente. Thanks for being here.

1                   It is 1:25. We can go off the record.

2                   The Witness: Thank you.

3                   Mr. Somers: We don't have anything else left.

4 We just want to thank you for coming in and giving us your  
5 time of day.

6                   The Witness: Thank you.

7                   (Whereupon, the proceedings were adjourned at  
8 1:25 p.m.)

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# ERRATA



Notice Date:

Deposition Date: June 22, 2020

Deponent: Dana J. Boente

Case Name: Senate Judiciary Committee

Page:Line	Now Reads	Should Read
<u>5:4</u>	<u>Jeremy</u>	<u>Joe</u>
<u>49:14</u>	<u>Zdeb</u>	<u>Zdeb,</u>
<u>54:14</u>	<u>Rubenstein</u>	<u>Rosenstein</u>
<u>69:25</u>	<u>was</u>	<u>were</u>
<u>71:21</u>	<u>to whether</u>	<u>to see whether</u>
<u>75:2</u>	<u>the FBI and also</u>	<u>the FBI also</u>
<u>119:7</u>	<u>clarify on a</u>	<u>clarify a</u>
<u>121:5</u>	<u>perceived</u>	<u>received</u>
<u>121:18</u>	<u>Moscow. Thus,</u>	<u>Moscow; thus,</u>
<u>121:19</u>	<u>Russia as</u>	<u>Russia—as</u>
<u>121:20</u>	<u>campaign were</u>	<u>Campagin—were</u>
<u>122:16</u>	<u>we can't cite you to</u>	<u>you can't cite to us</u>
<u>123:8</u>	<u>and did his</u>	<u>and who did his</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
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